WALTER OLSON: WHY YOU'RE RIGHT TO HATE LAWYERS!

REASON

Free Minds and Free Markets®

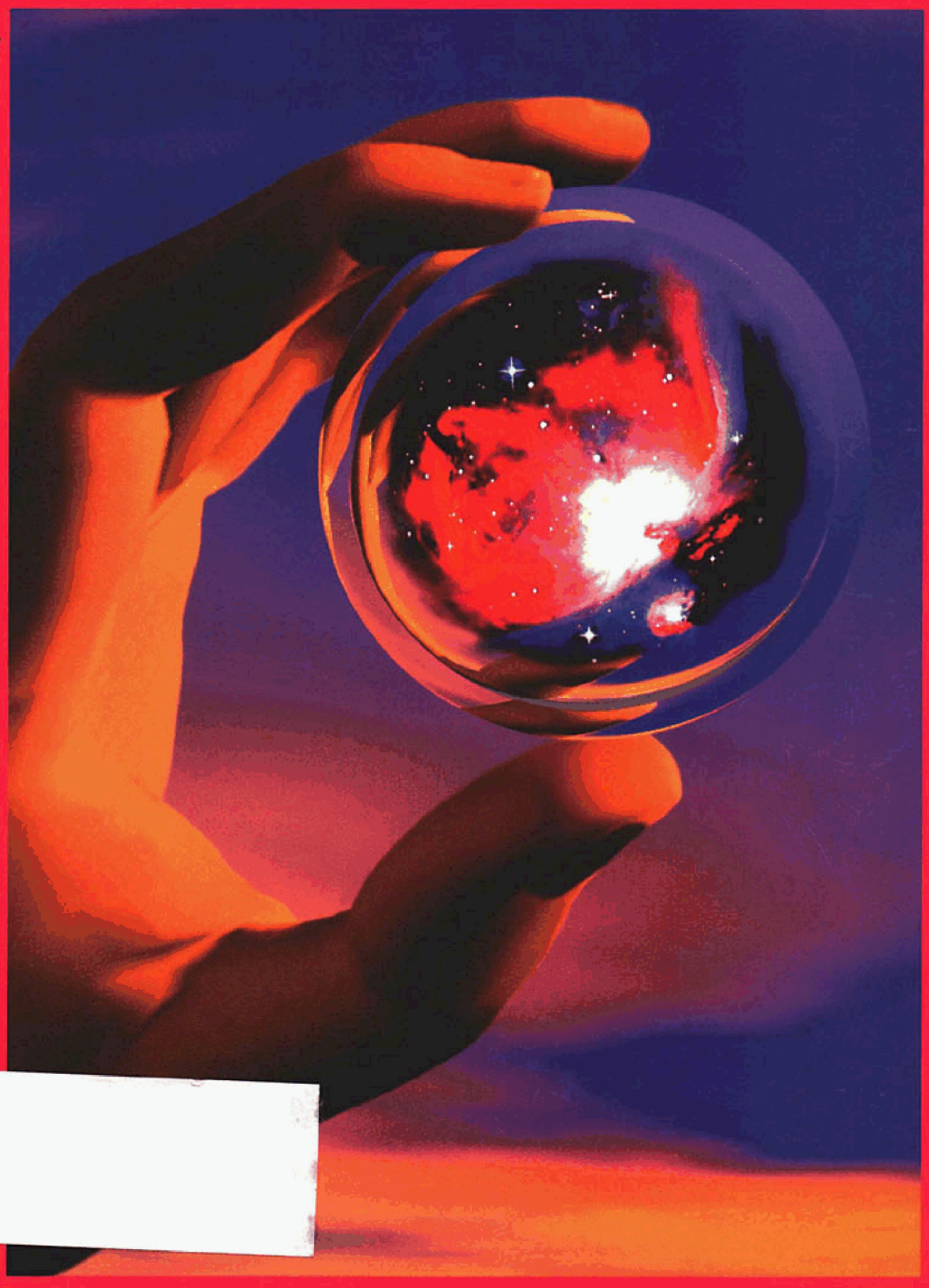
July 1999

IS GOD IN THE DETAILS?

RELIGION, POLITICS, & THE NEW PHYSICS
By Kenneth Silber

SUMMER SCHOOL READING:

- EASY-GRADING TEACHER TELLS ALL
  By Jerry Jesness
- HOW FREE SPEECH FINALLY WON AT WISCONSIN
  By Alan Charles Kors
- AMERICA'S EDUCATION HOSTAGES
  By Thomas W. Hazlett
- SCHOOLS OF ALIENATION
  By Nick Gillespie



$2.95/$3.50 CAN

0 71896 46530 3

46530 PRINTED IN USA

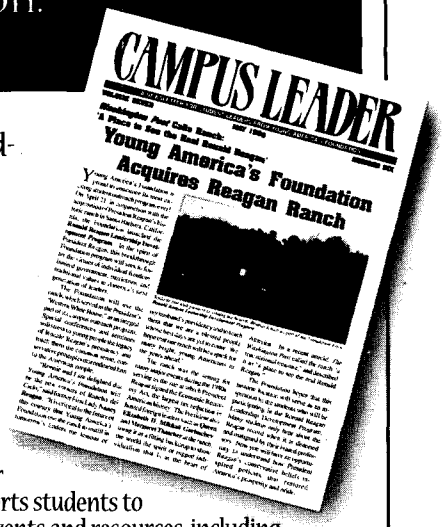
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

www.reason.com

"Young America's Foundation is leading the charge to win the hearts and minds of impressionable college-age students. Even Washington is paying attention."

Insight Magazine

THE VOICE OF FREEDOM ON CAMPUS
Rush Limbaugh Inspires Foundation Audience in New York City
Freedom Alliance
UP CLOSE
Buchanan Reveals Conservative Principles to Huge Student Audiences



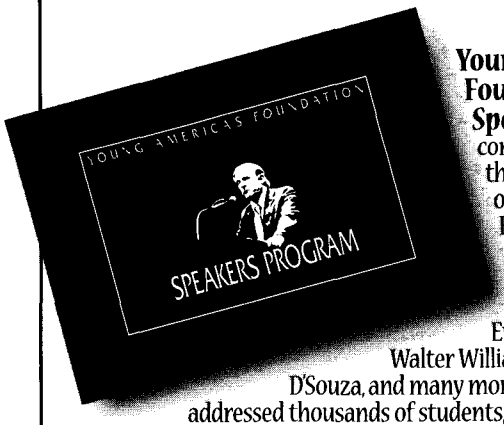
You can play an important role in spreading your ideas to new audiences. Young America's Foundation is the breakthrough outreach organization of the Conservative Movement. Learn the secrets of successful activism. *Call today!*

Libertas is the Foundation's general newsletter published six times yearly. It reports on Foundation events, noting students who have conducted campus programs and battled political correctness successfully.

Free.

Campus Leader is the Foundation's monthly newsletter for student contacts. It alerts students to available Foundation events and resources, including speakers, books, and posters. Each issue includes a full-size poster. These posters decorate thousands of dorm rooms on campuses all over the U. S.

Free to students.

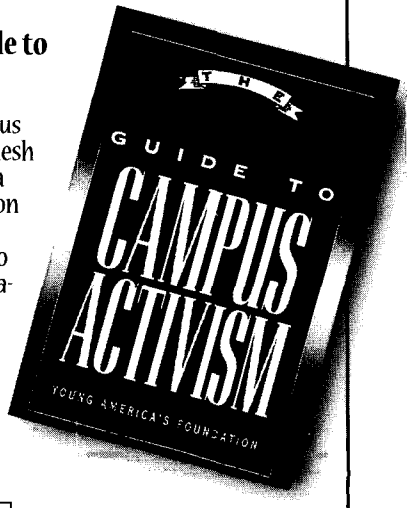


Young America's Foundation Speakers Program contains information on the various speakers offered through the Foundation, including William F. Buckley, Oliver North, Robert Novak, M. Stanton Evans, Michael Medved, Walter Williams, Ralph Reed, Dinesh D'Souza, and many more. These speakers have addressed thousands of students, bringing balance to hundreds of campuses all over the U. S.

Free.

The Conservative Guide to Campus Activism is the Foundation's "how-to" book written by successful campus activists such as author Dinesh D'Souza, Congressman Dana Rohrabacher and Foundation President Ron Robinson. It includes chapters on how to start a conservative newspaper, conduct speaking events, raise funds, defend your legal rights on campus, and more.

$10.00



To order, return this coupon to:

Young America's Foundation

F. M. Kirby Freedom Center, 110 Elden Street, Herndon, Virginia 20170

Check the items you wish to order:

___ *Campus Activism* ($10.00) ___ *Libertas* (Free)

___ *Campus Leader* (Free to students) ___ *Speakers Program* (Free)

Enclosed is $_____ (for *Campus Activism* only). Please send publications to:

Name _____ School (*if applicable*) _____

Address _____

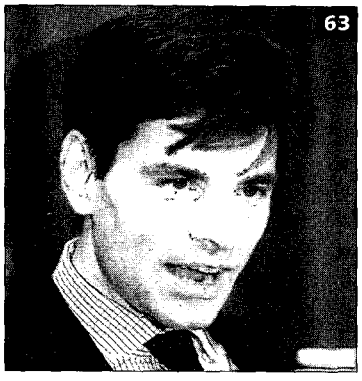
City _____ State _____ Zip _____

Phone _____ Email _____

F. M. Kirby Freedom Center
110 Elden Street
Herndon, Virginia 20170
703-318-9608
800-292-9231 toll free
www.yaf.org

The Reagan Ranch
812 B Anacapa Street
Santa Barbara, CA 93101
805-957-1980
877-797-7325 toll free
www.reaganranch.com

REASON®
Free Minds and Free Markets®
July 1999/Vol. 31 No.3



22 Is God in the Details? by Kenneth Silber
From cosmic coincidence to conservative cosmopolitics.

30 Cracking the Speech Code by Alan Charles Kors
When the University of Wisconsin sat down to evaluate its repressive faculty speech code, nobody expected free speech to win. Here's how it happened.

40 Why Johnny Can't Fail by Jerry Jesness
How the "floating standard" has destroyed public education.

46 Establishment Pause by Steve France
Religious freedom meets anti-discrimination law.

49 Shots in the Dark by Sue A. Blevins
Who should decide which vaccinations children receive?

52 Is Your Site Accessible? by Adam Clayton Powell III
Wheelchair ramps for the Information Superhighway.

Editorials

4 Schools of Alienation by Nick Gillespie
The Hobbesian culture of American education.

5 Empty Lessons by Jesse Walker
Going to lunch on the ruins.

Columnists

18 Capital Letters: Police Beat by Michael W. Lynch
In which our man in Washington observes the nation's guardians.

54 Reasonable Doubts: Lawyers, Gums, and Rummies by Walter Olson
Why do we hate attorneys?

66 Selected Skirmishes: Hostage Rescue by Thomas W. Hazlett
Another reason to liberate the schools.

Books

56 A Gray World by Brink Lindsey
***False Dawn: The Delusions of Global Capitalism,** by John Gray*

60 Gender Truce by Norah Vincent
***Ceasefire! Why Women and Men Must Join Forces to Achieve True Equality,** by Cathy Young*

63 All Too Shallow by John J. Pitney Jr.
***All Too Human: A Political Education,** by George Stephanopoulos*

Departments

8 Letters

10 Citings

Cover illustration: Jay Koelzer

REASON (ISSN 0048-6906) is published monthly except combined August/September issue by the Reason Foundation, a nonprofit, tax-exempt organization, 3415 S. Sepulveda Blvd., Suite 400, Los Angeles, CA 90034-6064. Periodicals postage paid at Los Angeles, CA, and additional mailing offices. Copyright© 1999 by Reason Foundation. All rights reserved. Reproduction or use, without permission, of editorial or graphic content is prohibited. Reason and Free Minds and Free Markets are registered trademarks owned by the Reason Foundation. **SUBSCRIPTIONS:** $26 per year. Outside U.S. add $8/year surface, $55/year airmail. Address subscription correspondence to Reason, P.O. Box 526, Mt. Morris, IL 61054, 815-734-1102. For address change (allow six weeks), provide old address and new address, including zip code. **UNSOLICITED MANUSCRIPTS** returned only if accompanied by SASE. **INDEXED** in Readers' Guide to Periodical Literature, InfoTrac, Historical Abstracts, Political Science Abstracts, America: History and Life, Book Review Index, and P.A.I.S. Bulletin. Available on microfilm from University Microfilms International, 300 North Zeeb Rd., Dept. P.R., Ann Arbor, MI 48106. **Printed in the United States. POSTMASTER:** Send address changes to Reason, P.O. Box 526, Mt. Morris, IL 61054. Publications Mail Sales Agreement No. 1476696.

Schools of Alienation

The Hobbesian culture of American education

By Nick Gillespie

The victims of the Columbine High School shootings in Littleton, Colorado, have been buried, if not fully laid to rest. Even as the incident fades from sharp memory and the schools empty for summer vacation, there's a good reason why this terrifying incident should haunt our national consciousness longer than similar tragedies in Springfield, Oregon; Jonesboro, Arkansas; West Paducah, Kentucky; and Pearl, Mississippi. It's not simply because the death toll is so much higher than in past massacres, or the mayhem so much more calculated.

However horrific, the actions of other schoolyard gunmen such as Kip Kinkel or Luke Woodham can be readily understood as stemming from individual pathologies and, hence, not particularly reflective of broader social issues. In contrast, the Columbine shootings can be seen as implicating not only the killers' own sick, twisted minds, but a school culture which humiliated and tormented them in ways that are all too familiar to most Americans.

The result has been a highly uncomfortable—but strangely understandable—empathy for Dylan Klebold and Eric Harris. When *Newsweek* quotes a classmate saying that the two walked the halls of Columbine "with their heads down, because if they looked up they'd get thrown into lockers and get called a 'fag,'" who doesn't exactly understand the anger and frustration such abuse inspires? When *Time* reports that they were routinely physically threatened and taunted as "dirt bags" and "inbreeds," who doesn't feel a twinge of outrage on their behalf? In a strange way—and one starkly at odds with the early media narrative of Klebold and Harris as isolated, inhuman killing machines—the pair almost emerged from the coverage as high school everymen, stand-ins for every bad memory of adolescent injury in a school setting.

After writing a column on the shooting for the World Wide Web site Slashdot.org, journalist Jon Katz was surprised to receive a deluge of "jarring testimonials from kids, adults, men and women" that while in no way exonerating the killers, "explained more—a lot more—about Littleton than all the vapid media stories about video violence, Goths, [and] game-crazed geeks." As one respondent put it, "I'm a geek under the skin...was a state champ in the high jump, and the leading scorer on the track team, so I was not quite the outcast that some...geeks are, but I understand what they are going through." Or, as another wrote, "I was much like those kids when I was in school—weird, cast out, not much liked, alienated, all that sort of thing. ...I used to imagine bringing weaponry to school and making the fuckers who made my life miserable beg for mercy."

Such responses are hardly limited to the sorts of technophilic "geeks" likely to surf the Web. Virtually everyone I spoke with after the shootings—people ranging from college professors to package-delivery men, from lawyers to current high school students, from ex-jocks to ex–band members—expressed some understanding of and appreciation for what they took to be the killers' mind-set. These ranged from the comments of a gay friend who half-jokingly wished he'd had access to guns while in high school to the confession of an athletic standout who felt sick at the bullying company he kept during the same years.

MIKE LUCKOVICH
ATLANTA CONSTITUTION
IT'S ONLY A MATTER OF TIME UNTIL WE'RE STATIONED BETWEEN THE NERDS AND THE JOCKS.
NATO peacekeeper
NATO peacekeeper
MIKE LUCKOVICH

Needless to say, nothing shifts the final responsibility for violence away from its perpetrators. But such unexpected fellow-feeling should give us great pause, even as it also helps to explain the recurring motif of school-related alienation and discomfort in popular works as varied in age, tone, setting, and genre as *The Catcher in the Rye, Rebel Without a Cause, Blackboard Jungle, The Outsiders, The Basketball Diaries, Carrie,* Pink Floyd's *The Wall, Heathers,* MTV's *Daria, Buffy the Vampire Slayer,* and *She's All That.* These and similar works are not all violent, but all in some way address the stultifying effects of a school culture that is widely acknowledged as nasty and brutish, conformist and repressive—and, all too often, brazenly anti-intellectual. It is almost as if we cannot even imagine schools that are not just a few steps removed from *Lord of the Flies.*

Of course, adolescence is at best a difficult, awkward period. It's a time when children move toward adulthood in tentative, often faltering steps—a process of individuation and identity creation that necessarily implies discomfort, discontent, and bouts of real and imagined alienation and ostracism. The question is whether schools tend to exacerbate those feelings or to sublimate them to some higher end. Do they reduce the pain of

adolescence or add to it? The general understanding of Klebold's and Harris' experiences strongly suggests the former.

In a strange coincidence, a previously planned special issue of *Rolling Stone* on "the new teen spirit" hit the newsstands shortly after the Columbine shootings. Part of the magazine, tellingly titled "When Everything Sucked," was devoted to reminiscences by musicians and actors about their teen years. One major theme was how harrowing high school was, psychically as well as physically. "It was brutal—like a prison," said rock star Rob Zombie, in a typical comment. To be sure, the dreadlocked Zombie—like the other participants in the article—is hardly a representative sample. But he is onto something nonetheless: American high schools often do resemble prisons, and not simply because they tend to be large, impersonal institutions filled with gangs, drugs, and cops or because they tend to prize order above all else. They are filled with many people who would rather be elsewhere.

It is, of course, wrong to hope for anything decent to come out of a tragedy like the one at Columbine High. But perhaps some small scrap of good can be salvaged if it forces us to envision—and to create—schools that do not become personal hells for so many kids.

Empty Lessons

Going to lunch on the ruins

By Jesse Walker

With a tone that was simultaneously hysterical and pompous, the pundits started searching for "the lessons of Littleton." Hundreds of commentaries later, only one lesson seems clear: No event is so unique or horrific that it cannot instantly be reduced to an editorialist's cliché.

The very day of the massacre—long before we even had an accurate count of the dead—Peter Jennings was treating viewers to a clip from *The Basketball Diaries*, a fantasy sequence in which a trench coat–clad Leonardo DiCaprio carries a gun to school and blows his classmates away. Littleton, Jennings announced, was sure to "reopen the debate" (had it been closed?) on the effects of media violence. He did not, however, stop showing footage of the terror, surely as intense a blast of media violence as anything in any movie.

So it began. Editorialists, activists, preachers, politicians: Everyone with a platform became an instant expert on the inner lives of Eric Harris and Dylan Klebold, the boys who killed 12 students, one teacher, and themselves at Columbine High School. Within a day of the assault, Colorado Gov. Bill Owens was declaring that the murderers didn't "have the same moral background as the rest of us." Bill Davenport, a Baptist pastor in San Clemente, confidently asserted that the killers didn't value life "because they haven't been taught about God." On CNN, criminologist Mike Rustigan declared, "Obviously, here, we are seeing non-parenting parents."

And where did these people acquire this insight into the shooters' moral upbringing? From thin air.

If you didn't like some part of pop culture, Littleton was a gold mine: Anything and everything could be attacked. Want to blame movies? MGM recalled all videos of *The Basketball Diaries*, letting the commentators turn their tut-tuts against *Heathers* and *The Matrix*. Want to blame video games? No report from Colorado was complete without the obligatory allusion to Doom. Want to blame music? Critics attacked Rammstein, KMFDM, and Marilyn Manson; the last bowed to political pressure and canceled the rest of his concert tour. (One wonders how many of the Marilyn-bashing moralists used to giggle to the folk ditty that begins, "Mine eyes have seen the glory of the burning of the school/We have murdered every teacher, we have broken every rule...")

The president himself weighed in, taking a break from his own massacre in the Balkans to declare that he would meet with "some high-level folks from the entertainment industry" to ask them to tone down their products. *The Wall Street Journal* blamed the massacre on a "culture of chaos" in which one might see "surviving Columbine students willing to go on national TV to talk about the massacre of 15 among them, but by golly they're not going to take off those backward baseball caps to do it." Jerry Falwell suggested that the killers were gay, a cry taken up in a press release from Topeka's Westboro Baptist Church: "Two filthy fags slaughtered 13 people at Columbine High."

In the course of their crimes, Harris and Klebold broke more than a dozen gun laws already on the books. There were, nonetheless, calls for still more gun control, as though there were some magic number of regulations that would suddenly make a potential schoolhouse killer junk his plans. "By the time our children leave school at the start of the summer," announced Handgun Control, Inc. Chair Sarah Brady, "they should know that the lawmakers of this country have done something to protect them from the type of gun violence that occurred at Littleton." Further demands for gun laws issued from figures ranging from Rosie O'Donnell to...Marilyn Manson.

And, as always, there were attacks on the Internet. If anything was suspicious about shooter Eric Harris, surely it was that he had *a Web page*. (He kept a diary, too, but for some reason there have been no frantic denunciations of notebooks.) The BBC straightfacedly described a "probe" into "whether the killers learned how to make bombs from the Internet." On MSNBC, criminologist Casey Jordan declared that the Net was "the key" to the story: "They were in chat rooms; they had Web pages. And on the Internet, the possibility for recruiting is just unknown."

Drugs, too, took a drubbing. Reps. John Peterson (R-Pa.) and James Rogan (R-Calif.) announced that they would propose legislation allowing schools to give students random drug tests, declaring that this would make future massacres less likely. When told that no traces of any drugs had been found in the shooters' bodies, Peterson was unswayed, arguing that narcotics had been a factor in "other" incidents. The Family Research Council sent out a fax claiming that April 20, the

REASON
www.reason.com

President and Publisher Robert W. Poole Jr. *(bobp@reason.com)*

Editor Virginia Postrel *(vpostrel@reason.com)*
Executive Editor Nick Gillespie *(gillespie@reason.com)*
Senior Editors
Charles Paul Freund *(cpf@reason.com)*
Jacob Sullum *(jsullum@reason.com)*
Associate Editor Jesse Walker *(jwalker@reason.com)*
Washington Editor Michael W. Lynch *(mlynch@reasondc.org)*
Assistant Managing Editor Mariel Garza *(mariel@reason.com)*
Science Correspondent Ronald Bailey *(rbailey@reason.com)*
Editorial Assistants Robert Honrado, Mary Toledo *(rfoffice@reason.org)*
Intern Ryan H. Sager
Art Director Barb Burch *(bburch@reason.com)*
Webmaster Brian J. Taylor *(webmaster@reason.com)*
***Reason Express* Writer** Jeff A. Taylor *(jtaylor@reason.com)*
Contributing Editors
Gregory Benford, James V. DeLong, Edith Efron, Glenn Garvin, Steven Hayward, Thomas W. Hazlett, David R. Henderson, John Hood, Brink Lindsey, Carolyn Lochhead, Loren E. Lomasky, John McClaughry, Deirdre N. McCloskey, Michael McMenamin, John J. Miller, Charles Oliver, Walter Olson, John J. Pitney Jr., Thomas Szasz, Frederick Turner, Martin Morse Wooster, Cathy Young
Cartoonists
Chip Bok, Henry Payne, Scott Stantis

Public Affairs Director Mike Alissi *(malissi@reason.com)*
Circulation Director Alyssa Garey *(agarey@reason.com)*
Assistant Publisher Michael Orendy *(michaelo@reason.com)*
Volunteer Anthony Brown
Legal Adviser Don Erik Franzen

Editorial and Production Offices
3415 S. Sepulveda Blvd., Suite 400
Los Angeles, CA 90034-6064
310-391-2245 Fax: 310-391-4395
(letters@reason.com)
(permissions@reason.com)
Washington Office
1717 Pennsylvania Ave., NW, Suite 260
Washington, DC 20006
202-955-1324 Fax: 202-955-3187
Advertising Sales
The Townsend Group, Inc.
7514 Wisconsin Ave., #350
Bethesda, MD 20814
301-215-6710 Fax: 301-215-7704
(ads@reason.com)
Circulation Service
P.O. Box 526, Mt. Morris, IL 61054
1-888-REASON-8 (1-888-732-7668)
(subscribe@reason.com)

Reason is published by the Reason Foundation, a 501(c)(3) nonprofit educational foundation. Contributions to the Reason Foundation are tax-deductible. Signed articles in *Reason* reflect the views of the authors and do not necessarily represent those of the editors, the Reason Foundation, or its trustees; articles should not be construed as attempts to aid or hinder the passage of any bill before any legislative body. The claims and opinions set forth in paid advertisements published in this magazine are not necessarily those of the Reason Foundation, and the publisher takes no responsibility for any such claim or opinion.

Audit Bureau of Circulations Member

Reason Foundation
Trustees
Harry E. Teasley Jr. (Chairman), Thomas E. Beach, William A. Dunn, James K. Glassman, C. Boyden Gray, Neal I. Goldman, Stina Hans, Manuel S. Klausner, David H. Koch, James Lintott, Robert W. Poole Jr., Al St. Clair, Joel Stern, Walter E. Williams, Frank Bond (emeritus)

President Robert W. Poole Jr.
Vice President, Magazine Virginia Postrel
Vice President, Research Lynn Scarlett

date of the shootings, was "the national marijuana smoke-off day" and that "420" was "the police code for marijuana." (420...4/20...get it?)

More often, analysts stressed that April 20 was Hitler's birthday—a sign, we were told, that the killers were neo-Nazis. (It was Marcus Aurelius' birthday too, but no one as yet has claimed the murderers were neo-Stoics.) Media reports described Harris and Klebold as inveterate racists, a charge the shooters' friends denied. No matter. Marc Fisher, in *The Washington Post*, seemed almost scrambling to find a racial angle the day after the massacre, in what might be the greatest self-undermining pair of sentences in the history of journalism: "Some witnesses said the shooters, who were white, appeared to be targeting black and Hispanic students, as well as student athletes of all races. Many whites were also among the victims."

Some pundits attacked goths; others took on trench coats; still others, the abolition of school prayer. Tipper Gore called for more therapy. George Will called for school uniforms. Camille Paglia blamed the nuclear family and the industrial revolution. Screenwriter Stephen Schiff blamed shopping malls.

In fact, *anyone* with an agenda found that, with enough effort, he could find a way to tie his wagon to the Littleton massacre. The Libertarian Party sent out a press release: "Public schools may be a contributing factor in the recent spate of school shootings..." From the privatizers to the proletarians: The *People's Tribune*, newspaper of the League of Revolutionaries for a New America, blamed the shootings on capitalism. "Our youth see what the future holds for them," wrote the revolutionaries. "They know that a society based on a market economy holds them valueless."

The hubbub reached its low point on April 28, when *The Washington Post*'s film critic, Stephen Hunter, decided the dreadful force responsible for the deaths was ...irony. After a labored analysis of *The Basketball Diaries*, Hunter made his point: "Jim Carroll writes a book that becomes a movie; he and everyone between him and the end user gets that it's ironic. The end user doesn't. His name is Eric Harris. The results are tragic....[U]ntil the irony-addicted and the irony-impaired begin to speak the same language and make an attempt to understand each other, it seems unlikely that there will be any healing—and there may even be a lot more killing."

The Littleton murders weren't just terrible. They were mysterious. My pacifist friends have wondered why there have been so few comparisons between the violence in the Balkans and the violence in Colorado. Surely, they say, both are mass slaughter. They have a point, but they're also missing something important. When Serbs slaughter Kosovars or NATO slaughters Serbs, one can at least discern reasons for the butchery, even if those rationales are amoral and offensive. The massacre at Columbine does not yield to such explanations. It hangs in the air, a mystery that can never be completely solved.

And never should be solved. Human beings are ciphers, capable of terrible acts. When someone does something this awful, and this unusual, it does no good to pretend we can reduce it to any simple lesson.

In the weeks since the Littleton slaughter, we've learned that most of what the media initially told us about the Columbine killers wasn't true. They weren't Nazis. They weren't especially racist. They weren't necessarily Goths. They might not even have been members of the clique of outcasts called the Trench Coat Mafia, which, by the way, wasn't originally called the Trench Coat Mafia.

We do know that bullies routinely picked on Harris, Klebold, and others like them. We do know that such behavior goes on in most of the country's schools. But most outcasts do not take weapons to school and kill the people who tormented them. We don't know what it was inside Eric Harris and Dylan Klebold that made them into the exceptions. And we never will.

REASON NEWS

We're pleased to announce the Swedish publication of Virginia Postrel's book, *The Future and Its Enemies*, by Timbro, a Stockholm-based think tank and publishing house (www.timbro.com and www.timbro.se). Virginia went to Sweden instead of writing this month's lead editorial. She'll be back in next month's issue.

Now, you can amass a HARVARD GRADUATE'S VOCABULARY *in just 15 minutes a day!*

As Seen On:
- CNN
- Headline News
- CNBC
- A&E
- Discovery Channel

Acquire a powerful vocabulary that catapults you into the top 5% of all educated adults – the most successful, highest-earning people!

PEOPLE JUDGE YOU BY THE WORDS YOU USE.

Studies over many decades have *proven* that a strong command of the English language is *directly linked* to career advancement, to the money you make and even to social success.

To move ahead in your career, your vocabulary level must at least *equal* the average level of the members of your profession. To excel, your vocabulary must *surpass* that of your colleagues.

Every day, *people judge you by the words you use.* Right or wrong, they make assumptions about your intelligence, your education and your capabilities.

Nothing makes a better impression than a solid mastery of the English language.

REMOVE OBSTACLES IN YOUR PATH.

Not having a strong command of language can be a serious *handicap,* an obstacle that prevents you from achieving your goals.

Someone who cannot express ideas eloquently, who hesitates because of uncertainty about the right word, can appear *less* than fully competent and qualified.

Don't let that kind of mistake hold you back from achieving your career goals and from all the other rewards and recognition you deserve.

So doesn't it make sense to have at your command as large, as *diverse* and as exact a vocabulary as possible?

What we call "the verbal advantage" is the ability to use words precisely and powerfully. It's having the knowledge and skill to communicate clearly, accurately and effectively...with confidence in *every* situation, both on the job *and* off.

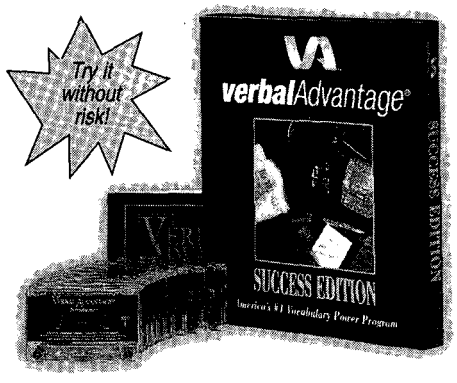
ALL YOU HAVE TO DO IS LISTEN!

Imagine yourself at a business or social gathering. You have the floor. All eyes are on you. You're speaking with confidence and poise, always choosing precisely the right word.

This scene could be real with Verbal Advantage®. This comprehensive program is the single *best* way to expand your vocabulary and sharpen your command of the English language. Best of all, it's on *audiocassette tapes.* To benefit, *all you have to do is listen!*

JOIN THE TOP 5%.

When you complete the program, your vocabulary will *surpass* that of most executives and professionals, including those with advanced degrees. You will then be speaking with the vocabulary of *the top 5%* of all educated adults – the most successful, highest-earning people.



HERE'S WHAT YOU RECEIVE IN
YOUR NO-RISK SHIPMENT:

The complete Verbal Advantage® Audio Program. 12 hours of fascinating narration professionally studio-recorded, crisp and clear. More than 1,500 words in all, with periodic quiz/reviews to reinforce your knowledge and fix in your mind all the words you've just learned.

PLUS A FREE BONUS.

If you order now, you also receive ***Memory Advantage*** *– absolutely FREE. This two-tape program (2 hours total) will give you the ability to remember names, faces, numbers and vocabulary as never before.*

You risk nothing. It is yours to audition for 30 days on a no-risk basis. You must be fully convinced that Verbal Advantage® gives you the POWERHOUSE VOCABULARY YOU NEED– in this highly competitive world – to join the TOP 5% OF ALL EDUCATED ADULTS... or it costs you nothing! Simply return your No-Risk shipment for a full and immediate refund of the purchase price.

YOU'LL NEVER MAKE A MISTAKE!

And there's much *more* to this remarkable program. You'll learn about commonly *misused* words, commonly *confused* words and commonly *mispronounced* words. You'll sharpen your ability to discriminate among words of similar meanings. And you'll gain the power to use language with greater clarity and precision.

This extraordinary audio course will help you *avoid common errors* in pronunciation, spelling, grammar and usage. Every key word is *defined, spelled out, carefully pronounced* and *used in a sentence* – so you'll *never* be caught in a blunder.

Verbal Advantage® gives you the tools you need to communicate more *effectively* and *confidently.* It will turn your *ability* with words into *mastery!*

"PUT A $ IN FRONT OF EACH WORD YOU LEARN."

More than 100,000 people have already benefited from Verbal Advantage®. And companies ranging from Aetna to Microsoft to Xerox have purchased the program.

CALL NOW FOR YOUR NO-RISK SHIPMENT.

Wouldn't you like to command a vocabulary so rich, so dynamic that people will be absolutely riveted by every word you speak, every phrase you write? You can – without risking a single penny – with the Verbal Advantage® way to a SUPER POWERHOUSE VOCABULARY in as little as 30 days...or even less!

Listen to Verbal Advantage® in the privacy of your own home or car. Prove to yourself how in just one month you can add thousands of new words to your vocabulary and attain a level that EQUALS THE TOP 5% OF ALL EDUCATED ADULTS!

You risk absolutely nothing. The entire package is yours to audition for 30 days on a no-risk basis. You must be fully convinced that Verbal Advantage® gives you the powerhouse vocabulary you need to join the top 5% of all educated adults... OR IT COSTS YOU NOTHING!

FOR MORE INFORMATION CALL NOW TOLL-FREE

1-888-477-1957

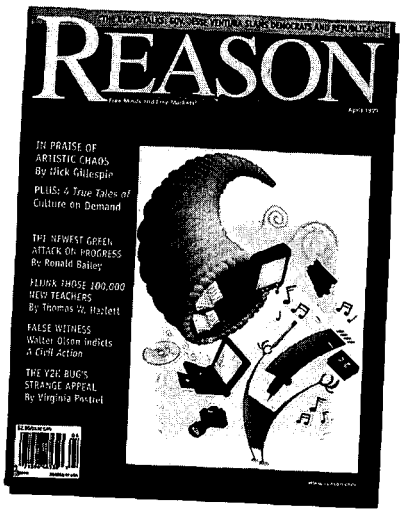
Operators Are Standing By

❑ **YES! Please rush me information about the Verbal Advantage® Audio Program. I want a powerhouse vocabulary that will allow me to join the top 5% of all educated adults!**

Name_____
Title/Co_____
Address_____
City/State/Zip_____
Country_____ **Phone**_____
(required information)

verbalAdvantage®
1150 Calle Cordillera, Dept. 5324
San Clemente, CA 92673 USA
www.verbaladvantage.com

Copyright 1998 WordSuccess, LLC


REASON
IN PRAISE OF ARTISTIC CHAOS
By Dick Gillespie
PLUS: A True Tales of Culture on Demand
THE NEWEST GREEN ATTACK ON PROGRESS
By Ronald Bailey
FLUNK THOSE 100,000 NEW TEACHERS
By Thomas W. Hazlett
FALSE WITNESS
Walter Olson Inflicts A Civil Action
THE Y2K BUG'S STRANGE APPEAL
By Virginia Postrel

Jesse's Big on Government

Jesse Ventura (" 'The Body' Politic," April) may be a self-described libertarian, and sometimes his rhetoric is libertarian, but his governing, so far, is not. The teachers union is more than happy with Jesse's proposed budget, which throws more money down the rathole of government education. Minnesota already spends a third of its budget on K–12 education. Jesse states that the proposals to give parents the ability to send their children to private schools are too limited. Therefore, he supports "fixing" government schools instead of offering a choice. The Minnesota Libertarian Party has proposed that all taxpayers, whether they have children or not, be given an education tax credit. This tax credit could be directed to specific students, to a private scholarship program, or to a private or government school. Jesse should embrace this proposal.

Jesse's education views are the most glaring example of his big government slant. He also wholeheartedly supports building a light rail system and statewide land use planning. Jesse, a self-described libertarian? Yes. A libertarian at heart? I don't think so.

Jim Rongstad
Woodbury, MN
jrongstad@juno.com

Y2K Possibilities

I read the editorial on Y2K ("Power Fantasies," April) and just loved it! I am a systems analyst/programmer working in a manufacturing environment and have spent the last eight months on Y2K changes. We converted two weeks ago. It was nasty for three days, then everything went back to normal. This is the usual pattern.

I would like to add a comment to the observation, "What Wheatley and Kellner-Rogers glibly dismiss as 'the old system' are the lives of millions of people with no particular zeal to 're-create' their culture or communities." Rwanda and Kosovo are having their communities and culture re-created. It is a brutal process and always has been. Anyone who looks upon it with glee is deceived or plain nuts.

Dave Holland
Grand Rapids, MI
david.holland@steelcase.com

I believe freedom lovers should take advantage of any opportunity that might arise from whatever Y2K-related computer disruptions do occur.

Specifically, it is likely that governments at all levels will be unable to perform various functions; some may even raise taxes to pay for Y2K fixes or contingency plans. We can urge abolition and/or privatization of many of those functions. Should the U.S. military experience multiple problems in weapons systems or in supplying troops overseas, we should argue for downsizing the military and bringing troops home. Y2K is just one more opportunity to declare that freedom is what America is all about.

Carol Moore
Washington, DC
carolmoore@kreative.net

All A's for Teacher Column

As Thomas W. Hazlett points out ("The Education Precedent," April), the amount of "learning improvements [that] will follow from diminishing the average class size" is "none."

When President Clinton unveiled his proposal to hire 100,000 more teachers, he said "every parent already knows" that education improves when class size shrinks. Yet accumulated evidence demonstrates that reducing class size has less of an effect on educational performance than on generating campaign contributions and political support from the teachers unions.

University of Rochester economist Eric Hanushek, one of the nation's leading education experts, points out that class sizes have already been shrinking for decades at an enormous cost and with no commensurate gains in test scores. Today's national average of 22 kids per classroom is down significantly from the 30-plus averages of the 1950s. In the last 45 years, the teacher-pupil ratio has fallen by 35 percent. The Asian nations that trounce us have vastly larger classes, often 40 or 50 youngsters.

The problem is not too few teachers. It's too many unqualified teachers. The Department of Education itself reports that 36 percent of public school teachers of academic subjects neither majored nor minored in the subject they teach. Yet, for example, a retired mathematician could not teach in a public school for the lack of teaching "credentials."

Indeed, a recent study by the National Bureau of Economic Research shows that class size and other resources have less effect on student performance than teacher quality. There are better ways to spend the

Communicate with REASON

We appreciate your letters, typed double-space and limited to 250 words. Letters sent to REASON will be considered for publication (unless otherwise noted) and may be subject to abridgment or editorial comment. Any letter intended for publication must include the sender's name, address, and daytime telephone number. Letters may be sent to letters@reason.com or mailed to:

3415 S. Sepulveda Blvd., Suite 400
Los Angeles, CA 90034-6064

money, such as providing annual scholarships to low-income pupils to escape from the educational prisons into private or charter schools, or tuition grants to the nation's teachers to actually learn more about the subjects they teach.

As Hanushek notes, "The evidence gives no reason to believe that reducing overall class size will have any effect on student performance." So why do it? Well, maybe because teachers get more jobs, unions get more members and more dues, politicians get more votes, and soccer moms feel all warm and fuzzy.

Daniel John Sobieski
Chicago, IL

A fascinating article. It cuts right through the circuitous hypothesizing that is so popular in the subject of education today.

Pat Collins
Sheridan, OR
colfam@open.org

I just have to say to Mr. Hazlett, "You're the Man!" Once again, in a clear, concise, factual, and insightful article, you have hit one way out of the ballpark!

David P. Reinhardt
Seattle, WA
dpr@davidpreinhardt

Thomas W. Hazlett replies: Many thanks for the kind words—and the chance to plug one more deserving inner-city school working miracles: Saint Elizabeth's Elementary School (4052 S. Wabash Ave., Chicago, IL 60653). Joe Klein turned me on to this little academic oasis with a piece he wrote in *Newsweek* in 1996, and I'm very pleased to pass the plate on its behalf.

TV Talking

I read with great delight "I Want My Satellite TV" (April). I've been a communications lawyer for more than 20 years, but I've never understood the issues and rules you describe—until your plain-English, real-life explanation.

I offer the following observations on the subject:

First, forbidding people in Area 1 to see local stations from Area 2, so as to preserve the monopoly of Area 1 stations over the people there, benefits a small but powerful group—Congress. For example, Congressman Bloop, who represents Area 1, wants "Re-Elect Bloop" ads to reach everyone in Area 1 (especially on the major network stations, which still get about 50 percent of the prime time viewers). If people in Area 1 can get Area 2 stations, it denies Congressman Bloop an unequaled concentration of the eyes and ears (voters) in Area 1.

Second, I wonder whether allowing satellites to beam down Area 1 stations in Area 1, Area 2 stations in Area 2, and so on, is really a solution. Specifically, I wonder if it's technically feasible with today's satellites. There are more than 1,000 local over-the-air TV stations in this country, and I wonder if any satellite a) has that capacity and b) can direct Area 1 stations just to Area 1.

Third, although the "must carry" rules were originally intended to save all over-the-air stations, they no longer benefit the big ones (ABC, CBS, Fox, and NBC). Those stations don't need "must carry" rules because any cable network must carry them to get customers. In fact, NBC may tell cable systems, "I'll let you show NBC on your lousy cable system only if you also show, for free, CNBC and MSNBC." The people who benefit today from "must carry" regulations are the small over-the-air stations.

Fourth, you are absolutely right that it was a masterstroke for the satellite people to build up millions of customers and then get challenged in court. That may be the only way to beat an incumbent industry that has the laws written in its favor. Cable TV had only a few thousand customers when the broadcast networks asked the Federal Communications Commission to crush it in the late '60s. The FCC agreed, and this country didn't get cable for about 15 years—probably the worst thing the FCC has ever done to consumers. A few years ago, the phone companies wanted the FCC to hobble the Internet, claiming that Internet usage (i.e., sociopathic teenagers watching dirty pictures) was clogging the phone network, preventing people from calling 911. (Do you want Granny to burn to death because she can't reach the fire department?) Sadly for the phone companies, by the time they began making the rounds at the FCC, the Internet had attracted millions of paying customers and had the support of the computer and software industries.

John Berresford
Rosslyn, VA
jberresf@aol.com

I really enjoyed "I Want My Satellite TV." I own both a large C-band dish and a small digital satellite service system. I have been following the Satellite Home Viewers Act controversy for several years. I would much rather watch WGN off a dish than the broadcast signal that I receive from the landbased transmitter 70 or so miles away.

Of course, the smart guys in D.C. (with a little help from friends at the National Association of Broadcasters) think they know the best way for us to watch TV.

Randall Schultz
Racine, WI
wb9wkj@execpc.com

CORRECTION

In "Brickbats" (April), an item about Bob Jones University gave the mistaken impression that all alumni of the college received a letter threatening to arrest gay graduates who return to campus. The campus actually conveyed its threat only to those former students suspected of being homosexual.

DEREKCRANE.COM
"BEST NEWS SUPPLEMENT ON THE WEB"

Social Insecurity

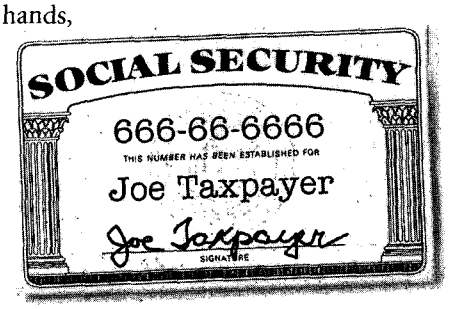
By Mariel Garza

If you worry about your Social Security number falling into the wrong hands, a recent government report says you've got good reason for such anxiety. Your number probably already has been used in ways you might not have expected—or authorized.

Because Social Security numbers are increasingly used by government agencies and private companies to identify individuals—and because of complaints about that trend—the House Ways and Means Committee's Subcommittee on Social Security asked the General Accounting Office to investigate the extent of governmental and commercial use. The GAO found that practically everyone—from credit bureaus to police departments to tax collection agencies—uses the numbers to identify individuals.

In fact, those groups were emphatic that they needed a single, widely used number to track people. Absent Social Security numbers, tax agents said that it would be nearly impossible to identify taxpayers; credit bureaus said it would make it difficult for them to conduct credit reports; cops worried that it would be easier for offenders to hide traffic violations; and health care providers said it would be difficult to maintain medical histories.

Such widespread use, however, is precisely what discomfits the public. Armed with your Social Security number, virtually anyone can track down your personal information, from your credit rating to your driving record. In the wake of the GAO report, lawmakers are considering legislation to restrict the use of the nine-digit identifiers.



Fired Up

By Jacob Sullum

In Philadelphia, the government knows a thing or two about fires: In 1985 police burned down 61 row houses by dropping a bomb on the radical group MOVE. Now officials say it's smoking, rather than overly enthusiastic law enforcement, that is the main cause of blazes there, accounting for about a quarter of the city's 2,860 fires last year.

Mayor Ed Rendell has taken these numbers to heart. Having gained national attention by encouraging cities to sue firearms manufacturers for the damage caused by gun-wielding criminals, he is now thinking about suing tobacco companies for the damage caused by cigarette-wielding drunks. "We're looking at the fire department, this huge part of our budget, being expended because cigarette companies won't make safer products," a lawyer hired by Rendell told *USA Today* in March.

For decades anti-smoking activists have argued that tobacco companies could make cigarettes that are less apt to ignite upholstery or mattresses when dropped. On the same day that word of Philadelphia's possible suit hit the papers, Rep. Joe Moakley (D-Mass.) and Sen. Richard Durbin (D-Ill.) announced a bill aimed at requiring tobacco companies to produce cigarettes that go out when left unattended.

The tobacco companies continue to do research in this area, but they argue that smokers do not like cigarettes that are hard to keep lit. They also suggest that the safety benefits of a design change have been oversold. "Cigarettes have to be lit and burned to be used," a Philip Morris spokeswoman told *The Philadelphia Inquirer*, "and as a result, no 'fire-safe' cigarette can replace the need for good common sense." But in a city that has pioneered the idea of demanding money because guns shoot and fire burns, common sense may have already gone up in smoke.

Balance Sheet

By Jeff A. Taylor

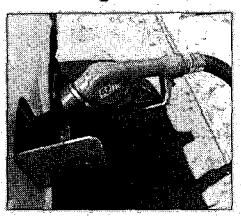
ASSETS

▲ Potomac Fever. After decades of ossified rule, the District of Columbia adopts a tax cut valued at $300 million over five years. Personal income and business taxes will be cut and taxes on Internet sales eliminated. The unabashed goal: to attract honest, private economic oomph to the nation's capital.

▲ Voltage Deregulator. Mexican President Ernesto Zedillo sticks with plans to privatize the state-owned electricity industry despite criticism from labor unions and opposition parties. Investment by foreign—i.e., U.S.—companies is the bugaboo, but Zedillo says that very thing will bring $25 billion to modernize and expand Mexico's power grid.

▲ Ma Coax. Telecom deregulation allows AT&T to snap up cable TV provider MediaOne. AT&T now has a way into homes that does not depend on archrival Baby Bells, allowing it to sell a host of services, including long distance and Internet access. One local phone company, US West, reacts by expanding its high-speed Internet service and cutting the price by 25 percent.

▲ Additives Subtract. A study by the National Academy of Sciences finds that oxygen additives in gasoline do little to reduce smog. In fact, some may lead to more nitrogen oxide emissions. The EPA, which asked for the study, says the results shouldn't change agency requirements for the additives. Oh. But California has already taken steps to ban one of the additives, and the study could give impetus to the other 16 states saddled with them to do the same.


NEIL MICHEL

Antique Values

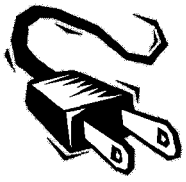
By Charles Paul Freund

In the Italian region of Apulia is a plain rich in

▼ Thaied Up. Maintenance workers for Thai Airways threaten to strike if the airline is privatized. Thai Airways is 93 percent owned by the Finance Ministry. The plan is to spin off some functions in a company with a 2 percent stake held by the Thai royal family. The International Monetary Fund is urging the change as a way to shore up the Thai economy, resulting in demonstrators holding signs reading "IMF Go to Hell." Of course, the IMF is hell.

▼ Lemon Laws. North Carolina is the latest state to try to ban car sales from a manufacturer directly to consumers. As automakers experiment with cutting dealers out of the mix by using the Internet and simple showrooms, dealers mobilize their lawmaker buddies to win protection. Consumers will continue to pay for the added layer of fat in the distribution system.

▼ Kilo-Wait Hours. Deregulation of the nation's electric utility industry proceeds in fits and starts. Many states are leaving the details up to their public utilities commissions, which will work fine in some cases, horribly in others. Worst-case scenario: States could set up mini-cartels for local power generators, making it impossible for out-of-towners to compete.



▼ Custom Made. The Customs Service says it needs $1.8 billion and four years to computerize its duty and fee collection system, which brought in $23 billion in 1997. If IRS experience with computer upgrades is any guide, it will take longer and more money than expected for Customs to get its 300-odd offices ready for the 21st century.

LIABILITIES

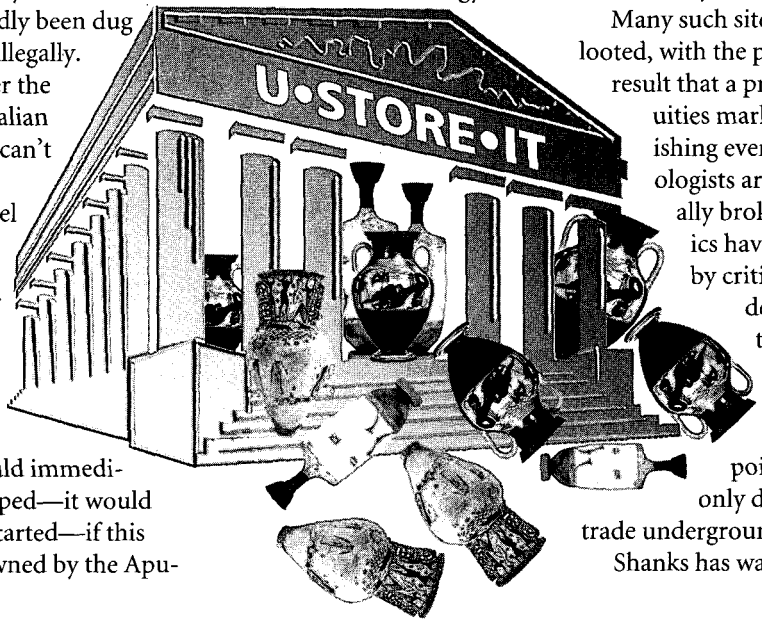
ancient tombs that have never been properly excavated. For years, looters have been breaking into the tombs and selling valuable artifacts on the antiquities black market. Tens of thousands of objects, especially Greek vases, have reportedly been dug up and sold illegally.

"Whatever the reason the Italian government can't stop this," writes Hershel Shanks in the May/June issue of *Archaeology Odyssey*, "you can be sure of one thing: It would immediately be stopped—it would never have started—if this land were owned by the Apulian Tomb Company, a private corporation."

Shanks, the magazine's editor, is not suggesting the land be turned over to private hands, though what he is proposing is just as heretical: He wants the archeology establishment to come to terms with the private antiquities market. The study of the past will be better served in every way, he argues, if the market value of ancient objects is allowed to assert itself.

In the case of Apulia, the Italian government, which technically owns any artifact found on public or private property, would realize no material value from an excavation; objects would simply be sent to a state museum. The museum is likely to have duplicates of almost everything that's found, and so will simply store the objects. Nobody will ever see them. Indeed, there are already great numbers of ancient coins, lamps, vases, and other objects in storage, where they apparently will remain forever.

Why not arrange to sell such duplicates, asks Shanks, and apply the profits to a proper dig? As things now stand, any unique objects are being looted. Because the circumstances of their discovery will remain unknown, so will their significance. By refusing to take advantage of a site's material value, the archeological establishment squanders the site's intellectual value, he says.



Many such sites are being looted, with the paradoxical result that a private antiquities market is flourishing even as archeologists are perpetually broke. Academics have responded by criticizing the dealers and trying to outlaw them. But as Shanks points out, that only drives the trade underground.

Shanks has waged seem- ▶

QUOTE

"I would like to begin by saying a word about the tragic bombing of the Chinese Embassy in Belgrade....I want to say to the Chinese people and to the leaders of China, I apologize; I regret this."
—President Clinton's opening remark at the May 10 White House Strategy Meeting on Children, Violence, and Responsibility

SOURCE

As school lets out for summer, check out "The Nation's Report Card," **(http://nces.ed.gov/nationsreportcard/site/home.asp)**, compiled by the National Assessment of Educational Progress. Since 1969, the NAEP has tracked academic performance of 4th-, 8th-, and 12th-graders in a range of subjects. Suffice it to say, **the grades aren't exactly the sort parents like to brag about.** From the recently released "Reading Report Card For the Nation and the States": "Across the three grades (4, 8, and 12) in 1998, the percentages of students...who performed at or above the Proficient level were 31, 33, and 40 percent; and the percentages who performed at the highest achievement level, Advanced, were 7, 3, and 6 percent."

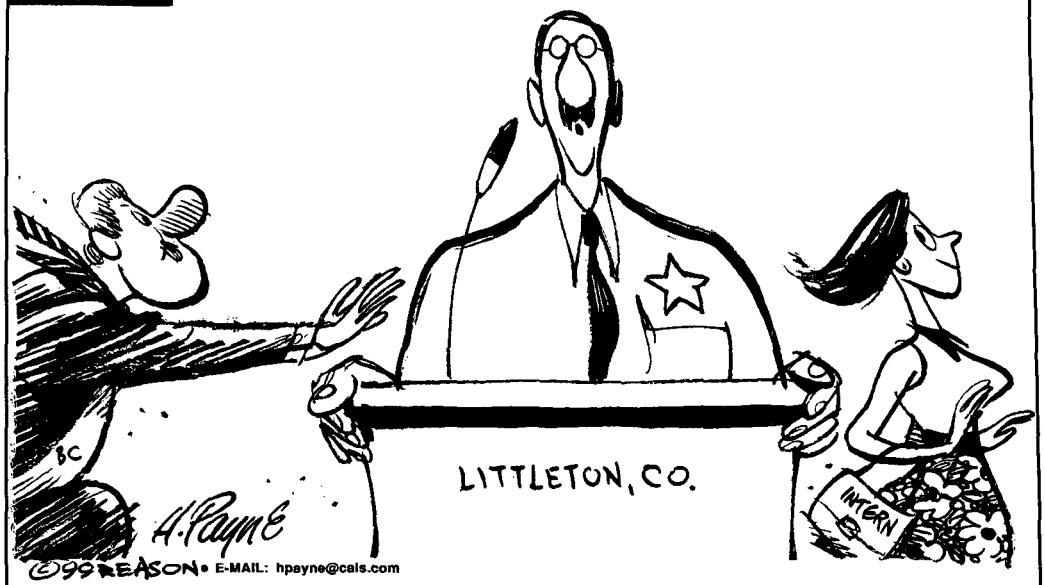
BRICKBATS

◆ The state of Florida is *looking for a few good* women. They must be willing to work nights. *They must be U.S. citizens.* And they must be willing to shed their clothes before drunken men. The state's search began when a strip club owner said he just couldn't find enough local women to dance at his joint. He wanted to bring in foreign dancers, and he asked for the state's help in getting work visas for some girls. But U.S. law says the state *first* has to confirm that the club can't get any Americans to fill those jobs. So *it took out ads* in various newspapers throughout the state looking for exotic dancers.

◆ In Rennes, France, teachers at a middle school went on strike. Were they upset over pay? Did they think their working conditions were dangerous? No, they were outraged that the school district ordered them to enroll a 12-year-old Muslim girl whose parents insisted she wear a head scarf to class. The teachers contend the scarf is a symbol of the oppression of women and prevents foreign students from integrating into French society.

◆ The Illinois Senate is considering a bill that would criminalize sending Internet messages about cannabis if the author knows the information might be used in an illegal activity. Supporters say the bill doesn't infringe the First Amendment. But critics say that sending information on how to cultivate marijuana, which would be legal if printed in a book, could be illegal under the bill.

Henry Payne



"IN TRYING TIMES LIKE THESE, PARENTS NEED TO GET INVOLVED AND BE EXAMPLES FOR OUR YOUNG PEOPLE."

ingly quixotic campaigns before—and won. Another of his magazines, *Biblical Archaeology Review*, led the effort to release long-untranslated portions of the Dead Sea Scrolls. Many museum directors are sympathetic to this effort, too, he says, but they won't speak publicly because of a "McCarthyite" animus against the market. It's a self-defeating antagonism, he believes. As he writes of the despoiled Apulian plain, "Only by realizing the value of the vases—on the market—can this looting be stopped."

Silicon Boobs

By Michael W. Lynch

No sooner is the federal budget in the black then America's biotech and computer industries want to suck away some of the surplus. TechNet, a Silicon Valley group "dedicated to helping high tech industry executives build close working relationships with the nation's top political leaders," hopes to get as close to the bosom of Washington, D.C., as a newborn baby.

TechNet's top public policy goals for 1999 are making the federal Research and Development Tax Credit, which expires in June, permanent and doubling the amount of money the federal government spends directly on basic research in science, engineering, and technology. Currently, the government spends $38 billion annually on nonmilitary research.

During a February press conference, TechNet officials and high-tech industry representatives sounded more like lobbyists for Amtrak or the Postal Service than spokesmen for one of the U.S. economy's most successful and competitive sectors. Genentech CEO Art Levinson claimed that without the federal government, there would simply be no biotech industry. He cited the R&D tax credit, in place since 1981, as the reason Genentech is able to develop drugs. Federal funding, declared a TechNet representative, "practically... create[d] the Silicon Valley." Another TechNet rep warned that American industry is threatened by "inadequate research at the university level."

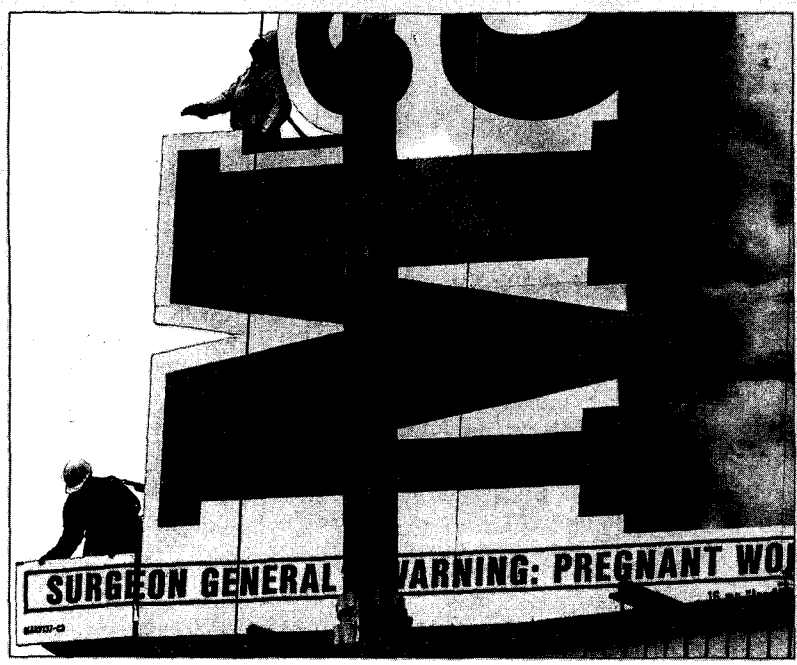
Such claims are as wildly exaggerated as they are self-serving. But hush little TechNet, don't you cry: Sen. William Frist (R-Tenn.) and Reps. Nancy Johnson (R-Conn.) and Robert Matsui (D-Calif.) have already introduced legislation to keep the federal milk flowing.

Post No Bills

By Jesse Walker

In most cities, the easiest way to promote a concert, locate a lost dog, sublet a room, or announce a demonstration is to run off a few hundred fliers and post them around town. In Seattle, however, this will earn you a $250 fine: In 1994, the city prohibited attaching posters to any "traffic control device,

ARTIFACT



LOS ANGELES TIMES / CAROLYN COLE

By the Boards

As part of a deal resolving lawsuits by 46 states, tobacco giants like the Marlboro Man have vanished from our streets and highways.

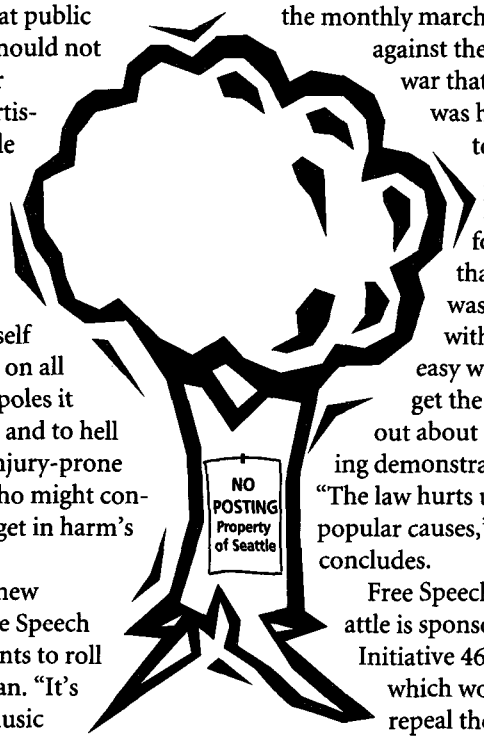
Will smoking decrease as a result? No study has ever demonstrated that advertising makes people more likely to smoke. But tobacco's opponents have long insisted that smoking would not be nearly as popular were it not for all those images of macho men and sexy women with cigarettes.

Lately, however, these critics don't sound so certain. Minnesota Attorney General Hubert H. Humphrey III made sure that ad restrictions were part of his state's settlement with the tobacco companies. Yet after last fall's announcement of the 46-state deal—which also bans cartoon characters, promotional items, and product placement in movies—he was suddenly skeptical. "Judging from the experience of those countries where all advertising is banned but teen-agers still light up in droves," Humphrey wrote in *The New York Times*, "limits on advertising may not make much difference." Now he tells us.

—Jacob Sullum

utility pole, lamp post, City-owned structure, or City-owned tree or shrubbery in any public place." Proponents argued that posters were ugly, that they might somehow hurt utility workers, and that public property should not be used for "free advertising." Seattle allowed only one exception to the ordinance: The city itself could post on all the utility poles it wanted to, and to hell with any injury-prone workers who might consequently get in harm's way.

Now a new group, Free Speech Seattle, wants to roll back the ban. "It's hurt the music scene and music culture in Seattle drastically," says Tim Crowley, who helped launch the organization last year. The law has also restricted political speech, he argues: When media outlets ignored the monthly marches against the drug war that he was helping to organize, he found that he was left without an easy way to get the word out about coming demonstrations. "The law hurts unpopular causes," he concludes.



Free Speech Seattle is sponsoring Initiative 46, which would repeal the restriction on using utility poles and lamp posts, while leaving the law's other provisions in place. If 19,000 people sign the group's petition, the initiative will go before the city council; if the council rejects it, it will appear on the next public ballot.

The city, meanwhile, has come up with a different plan. Last summer it created a task force to study the notion of spending some unspecified amount of money to build several hundred "community kiosks" around town.

Free Speech Seattle doesn't object to kiosks—indeed, two of its members sit on the city's task force—but it suspects that official post-it sites would be beside the point. "If I want to have a garage sale in my neighborhood, it won't do me much good to put a flier on a community kiosk 20 blocks away," observes Crowley. "This city already has 25,000 kiosks. They're called utility poles."

Grave Problem

By Michael W. Lynch

Computer-related Year 2000 problems are partly related to a lack of planning: Early programmers didn't foresee that their products would be in use at the turn of the century. But cemeteries across America are grappling with their own low-tech Y2K problem, one stemming from too much planning—and a failure to appreciate massive and continuing increases in life expectancies. On as many as 500,000 headstones around the country, a death date beginning with *19* has already been set in stone for folks who remain very much alive.

Through the 1960s, it was common practice to pre- ▶

BRICKBATS

◆ "I'd like to help, but I'm out of cash" may not work any more if you're trying to get away from a *homeless person in* San Francisco. Mayor Willie Brown has proposed giving beggars credit card machines to process donations.

◆ When the Art and Culture Center of Hollywood, Florida, was told by a building and safety code inspector to remove a pile of junk from its grounds, it quickly complied. But what the inspector called junk was actually "*kinetic sculpture*" created by Marc Leviton, the center's artist-in-residence. Leviton resents the trashing of his artwork and is suing the center under the federal Visual Artists' Rights Act. Since that law protects only the works of "recognized" artists, the center claims that the man they made artist-in-residence isn't really an artist, or at least not one whose talent is recognized by others. In the end, a jury will decide whether Leviton really is an artist.

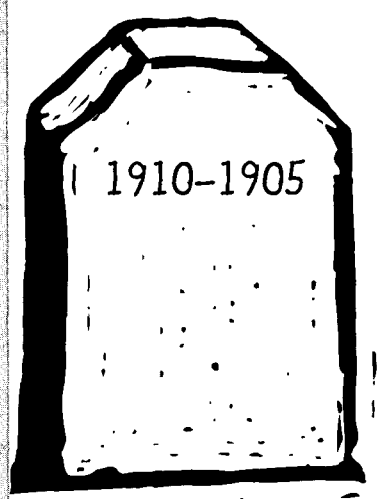
◆ Jay Montfort runs a stone quarry in Fishkill, New York. Each spring, local timber rattlesnakes come out of hibernation and slither en masse onto his land. Montfort naturally had some concerns and put up a fence to keep the snakes out. But the state of New York says the rattlers are endangered. It accused Montfort of "disturbing, harrying and worrying" the snakes by keeping them off his land and ordered him to take down his fence.

Scott Stantis

©1999 RJ&CO STANTIS
NO, IT WAS TELEVISION VIOLENCE!
VICTIM OF EASY GUN ACCESS!
IT WAS POOR PARENTING!
IT WAS SOCIETY! SOCIETY DONE IT!!!
KILLED BY VIDEO GAMES!
PERSONAL RESPONSIBILITY

carve headstones for couples who made advance purchases of grave monuments. For others, when the first spouse died, engravers would add the known information for the second spouse as well, including the birth year and the first two digits of the death year—inevitably assumed to be sometime in the 20th century.

"When we had this done in the 1950s, I said to the man who did the stone, 'What if I don't die in 19-something?'" 82-year-old Jesse Stibitz recently told the *Los Angeles Times*. "And he looked at me and said, 'You will.'" But both Stibitz and his 84-year-old wife are still alive, and likely to remain so into the new millennium.



Solutions include filling the *19* with epoxy and recarving *20*, resurfacing the entire stone, or replacing the stone altogether. The costs can range from $150 to $1,200 or more. Who pays? Where the individual requested the early cut, she'll be liable. In other cases, the seller will have to pick up the tab.

The headstone problem isn't without precedent. "In some old cemeteries," the International Cemetery and Funeral Association's Bob Fell told the *Orlando Sentinel*, "you can find somebody who was born in 1810 and died in 1805."

But the cemetery screwup has been greatly exacerbated by the fact that people live much longer lives due to advances in nutrition, medicine, and wealth. At birth, a person born in 1900 could expect to live 47 years; for 1999 newborns, the figure is over 77.

Swamp Thing

By Brian Doherty

In the late 1940s the Army Corps of Engineers systematically altered the landscape of Southern Florida by digging channels and regrading surfaces. One result was the creation of enormous amounts of arable land, most of which is devoted to sugar farms that would not exist absent federal sugar-price supports. Another result: The Everglades are about half their former size and in poor ecological health.

Now the Corps is "volunteering," at a projected cost of $11 billion, to "restore" the Everglades to its pristine past. The ambitious undertaking—which would require buying or seizing thousands of acres of private land—is still in the planning stages, but federal, state, and local governments have already spent at least $1.2 billion on

the effort, says a report from the General Accounting Office. In fact, the GAO admits it can't be sure how much has been spent, since some "13 federal agencies, seven Florida agencies, two American Indian tribes, 16 counties and scores of municipal governments" are involved and many of them "do not separately track the funds obligated and expended" on the project.

The report suggests the reclamation is likely to become a taxpayer-financed sinkhole, noting that already two projects "integral to the restoration effort are...more than two years behind schedule and together could cost about $80 million more to complete than originally estimated."

There are also issues the GAO doesn't address but that concern Floridians: guaranteeing water quality, the environmental science behind the project, and land acquisition procedures. Since many of the Everglades' natural processes were severely disrupted by the Corps' earlier actions, a number of researchers say it's unclear how they can ever be restored.

And at an April hearing before a House subcommittee, legislators talked liberally about condemning properties or invoking eminent domain to meet their land needs. If landowners stand their ground, the Everglades project could become a political swamp as well as a money pit.

SOUNDBITE

Dr. Doom

By Michael W. Lynch

Nothing succeeds like predicting failure. No one knows this better than Raveendra (Ravi) N. Batra, an economist at Southern Methodist University. In 1987, he hit the best-seller lists with *The Great Depression of 1990*, which sold some 450,000 copies. He followed that up with *Surviving the Great Depression of 1990* (1988) and *The Stock Market Crashes of 1998 and 1999* (1998). Batra has just completed *The Crash of the Millennium*, which will be published by Harmony Books in August. In it, he argues that the American economy is going back to the 1970s. With wages failing to keep up with productivity, Batra predicts debt-burdened Americans will be unable to keep consuming at current levels. The ensuing stock market crash, he says, will usher in an "inflationary depression" characterized by negative economic growth and rising prices. Is the fourth time the charm? Washington Editor Michael W. Lynch spoke with Batra via telephone in May.

Q: You predicted a depression in 1990. So what happened?

A: I think it partially came true and partially did not. We stopped the depression by borrowing money from abroad. But we are now in worse shape.

Q: You predicted stock market crashes in 1998 and 1999, but the stock market is higher than ever. Why should we believe you about the millennium?

A: In my previous book, I mentioned August 1998 as a month in which there would be a crash, and it happened. I said [Federal Reserve head Alan] Greenspan would cut interest rates and that would take us into 1999. Greenspan brought interest rates down three times and the stock market recovered. The title of the book was *crashes* of 1998 and 1999. That forecast has been right on the money. 1999 is not over. The last year in each decade has produced a nightmare somewhere on Earth. The United States is the only oasis of prosperity left. The next nightmare will be in the United States, and I think it will start in September and October.

Q: What do you say to critics who say, "You're crazy. We're in the midst of a huge expansion driven by productivity increases, and we're looking at good times for at least 30 years"?

A: If markets were truly free, I would be the first person to say that prosperity would go on and on. But we don't have free markets. We have monopolies on one side and totally feeble unions and labor markets on the other side. Demand is not rising as fast as supply. We have artificial demand created by debt, and it cannot go on forever.

In my new book, I have a list of 33 forecasts I've made in my life. Two have been wrong—and only partially wrong. If someone can make 33 forecasts—fantastic forecasts—and only two are wrong, you have to ask, What happened in those two situations? The answer is that the calamity was postponed through massive borrowing. But when that calamity does come, it will be worse than before.

Alternate History

By Mariel Garza

One of the ironies of capitalism is that socialism sells, especially when plugged by millionaire movie stars and rock idols. That helps explains surging sales for *A People's History of the United States: 1492–Present*, a leftist chronicle by Boston University professor emeritus Howard Zinn. Originally published in 1980 and revised in 1995, the book has sold more than 500,000 copies—a total that is climbing rapidly due in no small part to a prominent product placement in the popular 1997 film *Good Will Hunting*. Matt Damon, who co-wrote and starred in the movie, and Pearl Jam singer Eddie Vedder are among the celebrities who have publicly touted the book to their youthful fans.

As a result, the book has become standard fare not only at left-leaning independent bookstores throughout the country, but also at mall-style chain stores. Of course, glitterati advocacy alone can't account for such success—and certainly doesn't explain ▶

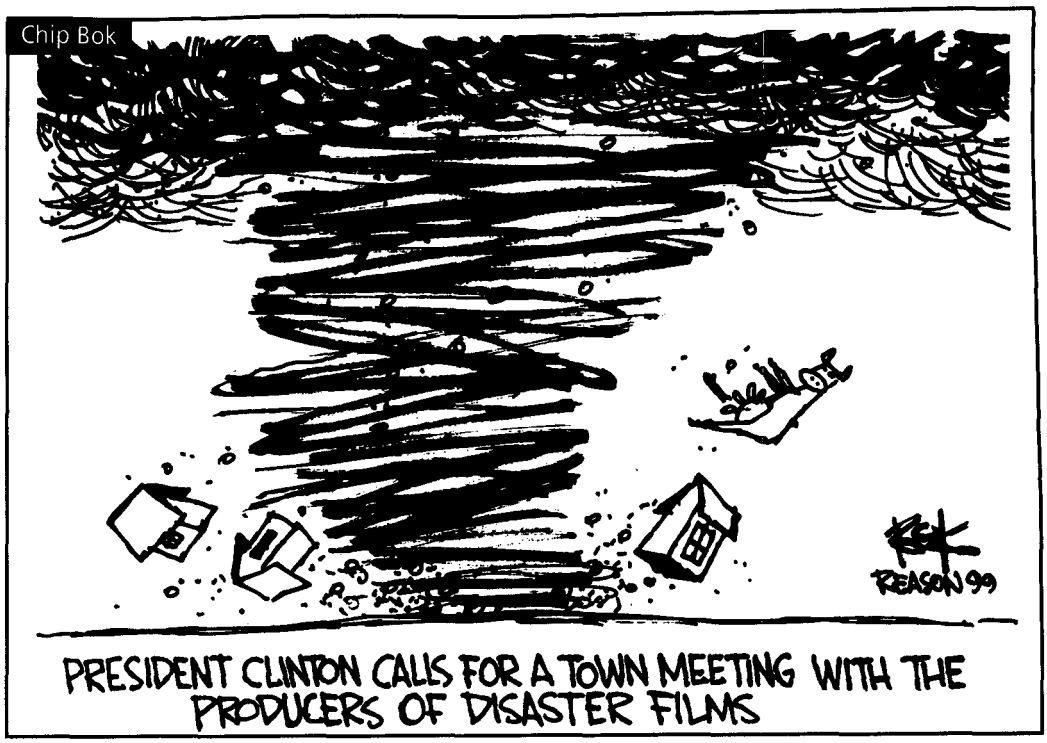
BRICKBATS

♦ Several California cities have declared themselves smoking free or nuclear free, but Oakland may become the first in the state to be spanking free. A child-welfare activist has asked the city to become a "No Spanking Zone" to discourage parents from hitting their kids. No word on whether the ban will apply to consenting adults.

♦ West Virginia's Randolph County School District has decided that all teachers and students must wear ID tags with a photo and bar code. The school district, which also brings in police and drug-sniffing dogs for random searches of students, says the tags promote safety. But some students and teachers refuse to wear the tags because the Bible warns against assigning numbers to people. The school says those who don't wear the tags will face disciplinary action and, in the case of faculty, loss of their jobs.

♦ Is one of your car tires a little low on air? Then you might pull into a service station to inflate the tire. And that station might charge you a quarter for the air. No big deal, right? Well, California state Assemblywoman Nell Soto says it is a problem. She has introduced a bill to force service stations to offer free air and water. Stations, especially those that don't offer air or water at all now, say it'll cut into their profits and that other services that people want more will suffer.

—Charles Oliver



AP / WIDE WORLD PHOTO

Eddie Vedder

the weekly additions to the list of reader reviews found on Amazon.com (where the book maintained a sales ranking of around 500 for some time). Mostly favorable, the reviews include comments such as, "This is the ONLY U.S. history book that matters," and "brilliant."

Why do people love it? Despite its anticapitalist mentality, *A People's History* is a great example of product differentiation, entering underserved markets, and giving people what they want.

Zinn has a master storyteller's touch and he tells the tales of folks often left out of other texts—Indians, black slaves, poor whites, women, and immigrants—from their perspectives.

And, in the best Hollywood tradition, the book is packed with violence, sex, and intrigue. Consider, for example, Zinn's NC-17 treatment of Jamestown residents during the colony's "starving time" in the winter of 1609–1610: "One among them slew his wife as she slept in his bosom, cut her to pieces, salted her and fed upon her till he had clean devoured all parts saving her head."

Now that's entertainment. So much so, in fact, that media baron—and arch-capitalist—Rupert Murdoch is among Zinn's fans. Indeed, Fox has inked a deal to develop a mini-series based on the book. ◆

☛ "Mass transit? You mean [environmentalists] want *more* of the filthy subways of New York City, where people are herded in like cattle?"

—from "Hatred of the Automobile"

☛ "The Air Force...has taken the position that it is legal for 'military' or 'foreign policy' reasons to disguise military operations through 'inaccurate or untrue' official reports. This conclusion was asserted in a memorandum...submitted to the Senate Armed Services Committee in connection with the...investigation...of the secret bombing of Cambodia."

—from "Publisher's Notes"

PAID ADVERTISEMENT

Search Results for Organizations that Actively Limit Government

Location: http://www.ij.org

search the web

Ask a question or enter a few words

Search for: Organizations that Actively Limit Government [search]

RESULTS

Related Searches:

- How can I help limit government? Answer
- What organization most effectively defends individuals against government? Answer

% Match

100% **Institute For Justice** - America's premier libertarian public interest law firm.

Government at every level works to restrict individual liberty – standing in the way of aspiring entrepreneurs who want to earn an honest living, unconstitutionally taking private property, consigning children to dismal public schools, suppressing speech.

The Institute for Justice fights in the courts and the court of public opinion across the country to limit the size, scope, and influence of government.

With big victories for economic liberty, private property rights, and school choice, IJ has opened markets for entrepreneurs, kept people in their homes, and secured a decent education for countless children otherwise trapped in failing public schools. But there's much more to be done to fight government intrusion on individual freedom.

If you believe in individual liberty, free-market principles, and limited government, take a closer look at www.ij.org.

URL: www.ij.org
Last Modified: TODAY

www.ij.org

Click Here to Limit Government

Reminder -
Don't forget to contact:

Institute for Justice
1717 Pennsylvania Ave., NW Suite 200
Washington, D.C. 20006
Tel (202) 955-1300
Fax (202) 955-1329
e-mail: general@ij.org

PAID ADVERTISEMENT

Police Beat

In which our man in Washington observes the nation's guardians

By Michael W. Lynch

Date: Tues, May 4, 1999 8:31:03 AM
From: mlynch@reasondc.org
Subj: The Affable Despot

Jaws dropped at the Cato Institute yesterday. The amazed were hunkered down in the subterranean F.A. Hayek Auditorium for a morning conference on civil asset forfeiture reform. House Judiciary Committee Chairman Henry Hyde (R-Ill.) was on hand to outline the provisions of his forfeiture reform bill, which he had just introduced, and to speak more generally to the injustices of seizing people's property without a trial. Hyde has put together a bipartisan coalition that includes Reps. Bob Barr (R-Ga.), John Conyers (D-Mich.), and Barney Frank (D-Mass.) to battle Clinton's Department of Justice and the legion of state and local law enforcement organizations that get a cut of the more than $338 million the government seizes from Americans each year. But it wasn't Hyde who amazed us.

It was Gordon Kromberg, the assistant U.S. attorney for the Eastern District of Virginia, one of two Department of Justice representatives present. By the time Kromberg made it to the microphone, Cato's Roger Pilon, Hyde, and Bo Edwards, an attorney who represents people whose property has been stolen by government agents, had already held forth. They'd explained the system: that property can be confiscated by government agents based on nothing more than probable cause; that the accused individual is considered guilty and must prove otherwise to get his property back; that law enforcement agencies get to keep and use whatever they confiscate; and that this system, not surprisingly, often abuses innocents, especially minorities who, we all know, are more likely to fit law enforcement's definition of probable cause.

Kromberg, who'd grinned through a glass of water for the entire presentation, knew he had a tough case to make. "Thanks for having me as the designated piñata at this party," he opened wryly.

He then proceeded to a two-pronged line of argument. First, he denied there was a problem. Claiming the examples Pilon, Hyde, and Edwards cited were dated—most went back to the early '90s—he said the government had reformed itself. It had learned how to handle its new tool, which, after all, was put to serious use for the first time in the late 1980s. Playing to the anti-government sentiment of the Cato crowd, this crafty arm of Leviathan claimed Hyde's efforts were typical of our bumbling government. Mocked Kromberg, "Let's go reform what used to be." As proof of good behavior, Kromberg said he hadn't confiscated a car in over a year.

The shocking part came later. Explaining the two types of asset forfeiture—criminal, which emerges from a criminal trial and conviction, and civil, which can transpire absent even an arrest of the property owner, let alone a conviction. Kromberg defended the latter in this way: Prosecutors are busy. Way too many bad guys are running around for them to help catch with stings and convict in court. Some outlaws are even pretty smart. He admitted that he currently had 10 money laundering cases in which he couldn't figure out how the people were washing the dough. But still, he knew these people were guilty and was certain they needed to be punished. Should we let these people get away, he asked, before answering in an illuminating way: Not if we can punish them through other means.

There you have it: Kromberg came clean, to employ a law enforcement cliché. He bluntly declared that people like him ought to be able to punish individuals they believe are guilty, even if they can't prove that guilt in a court of law. In essence, this affable despot sees nothing wrong with prosecutors serving as judges and juries. Different levels of punitive action deserve different levels of protection, he said. If you're not infringing on liberty, he said, punishment should require a lower standard.

Now two things are worth mentioning. I would argue that confiscating someone's car, their boat, or a large sum of money is in fact depriving them of liberty—at least the liberty to drive around, go water skiing, and buy stuff. It's interesting that those in our government doing the confiscating don't agree.

Perhaps more important, however, is that the "lower standard" Kromberg invokes, probable cause, is barely a standard at all these days. In practice, this means a government agent can seize any money you may be carrying if a drug dog detects a bit of contraband on it. Since most of the U.S. money supply is contaminated, the government can basically empty out your wallet any time it wants. It is up to you, an American citizen who hitherto thought you had constitutional rights, to convince the government, either in an administrative procedure or later in court, at great expense and effort, that the money was in fact not the result of a drug transaction.

Kromberg sees nothing wrong with the probable cause standard. In fact, he loves it. This low standard, he explained, allows

HENRY PAYNE

the government to rely on hearsay to confiscate property. If you tighten this standard, according to Kromberg, the government would have to go to trial—actually march into a real court where even people who aren't government agents have rights—to get its hands on someone's property. That's what's wrong with Hyde's bill. Said Kromberg: "When you want to change the burden of proof, you're cutting the throat, eviscerating asset forfeiture as a tool."

Precisely, Mr. Prosecutor.

Date: Tues, May 11, 1999 11:36:26 AM
From: mlynch@reasondc.org
Subj: Summit View

Yesterday was "Save the Children from Violence and Teach 'Em Responsibility Day" in Washington. Everyone was in on the festivities. The White House hosted a summit to address the issue. Clinton neglected to invite the National Rifle Association, prompting it to hold a press conference at the National Press Club. Republican presidential hopeful Gary Bauer felt the need for his own press conference in an adjacent room, where he screened segments from violent movies and video games. And on my way to the Press Club, a woman wearing a black trench coat and a black stocking hat and carrying a sign that said, "Clinton: Trench Coat Role Model," stopped in front of the White House to hand me some 19th-century peacenik poetry.

Washington is responding to this "crisis" as it does to all others—as a news hook to push prepackaged policy. Some are using the tragedy to argue for more federal control, others are calling for the feds to more forcefully exert the immense power they already enjoy, and still others are blaming private third parties and issuing thinly veiled calls for censorship.

I figured I'd spend a day listening to the blather. The NRA conference was packed—too many cameras to count and a podium of microphones that must have numbered in the 20s. Wayne LaPierre, the NRA's executive vice president, was first up. After assuring us that the NRA had a core interest in reducing violence, he said he felt compelled to read a statement. The perspiring LaPierre opened with an extended metaphor of policy making as theater, politicians working up the audience with staged events and final passage of some new federal law as the closing. The politicians, charged LaPierre, know the new laws won't do a darned thing to solve any problem, but that's not the point: Their policy stance polls well.

In a slap at the entertainment industry, LaPierre said, "This made-for-TV lawmaking has the same effect on the population as made-for-TV violence. It entertains but harms us."

By now, you have probably seen the rest of his case in one of the NRA's newspaper advertisements. The preponderance of child violence and teen death by guns is among 15-to-19-year-olds, many of whom are actually adults and all of whom are already breaking existing laws. Out of 6,000 kids who got caught with guns at school—in violation of the federal Gun-Free Schools Zone Act—the Clinton administration prosecuted only 13. Out of the 250,000 felons who tried to buy a gun in violation of the Brady law, none was prosecuted. LaPierre and the NRA want to put more people in jail before we pass new laws. They also want the federal government to spend more of your money on prosecutors and to take charge of discipline at your local school.

Washington is responding to the Littleton "crisis" as it does to all others—as a news hook to push prepackaged policy. Some are using the tragedy to argue for more federal control, others are calling for the feds to more forcefully exert the immense power they already enjoy, and still others are issuing thinly veiled calls for censorship.

While LaPierre talked about "the culture of violence" and "gang bangers" causing all the mayhem, Gary Bauer was busy next door blaming Hollywood and America's "death culture" for the Littleton massacre. Since Bauer's show conflicted with the NRA's, I, like many other reporters, was unable to view his screenings of select scenes from *Natural Born Killers* and segments of the video game Doom. I had to content myself with a written release of his remarks and an interview afterward.

"There is a direct connection between what is produced in Hollywood studios and the rising tide of cultural chaos we are witnessing in a horrifying pattern of school shootings, bomb threats and other disturbing classrooms," according to Bauer's statement. Bauer, no doubt a popular culture connoisseur and avid video game freak, later continued, in what might be a bit of an overstatement, "Today's music, film, and video games laud explicit, sadistic sex, glossed with sickening violence and deep degradation of the human spirit." So much for solitaire and *Shakespeare in Love.*

I caught up with Bauer later and asked him if he thought it was a little disingenuous for politicians, aspiring politicians,

OPEN SOCIETY INSTITUTE
INDIVIDUAL PROJECT FELLOWSHIPS

The Open Society Institute (OSI), a private operating foundation established and supported by George Soros to foster the development of open societies around the world, invites applications for **Individual Project Fellowships**. Fellowships are awarded to individuals from a wide variety of professions pursuing efforts on issues of importance to promoting an open society either in the United States or internationally. Funded projects encompass all program areas contained within OSI. Areas of particular interest include, but are not limited to:

- access to courts and legal services
- contemporary arts and culture
- criminal justice
- death and dying
- drug policy reform
- education
- immigration and civic identity
- inner-city community building
- political participation
- professional and ethical conduct in law, medicine, and journalism
- reproductive rights

1999 DEADLINES: JULY 15 & DECEMBER 15
APPLICATIONS MUST BE *RECEIVED BY* THOSE DATES.
Please do not send unsolicited materials.

DOWNLOAD THE APPLICATION FROM OUR WEB SITE:
www.soros.org/fellow/individual.html
RECEIVE THE APPLICATION BY POST BY CONTACTING:
fellows@sorosny.org or 212.548.0119

and advocacy groups, none of whom has a clue what really causes bomb- and gun-related school tragedies, to use the carnage as a convenient way to push their pre-existing policy goals. Looking up at a slight angle, he addressed the question directly. "The worst thing," he replied, "would be for politicians and those of us who aspire to leadership to say nothing." Quiet politicians. The horror!

I was soon out the door and off to the White House, where President Clinton was hosting a summit. I missed the opening of the festivities, but according to the pool report, Clinton entered the White House East Room filled with nearly 60 select souls. "This was an isolated and tragic event," Clinton told the room. He wasn't talking about the Columbine High event—no, that's part of an epidemic of violence that shows the need for more federal laws, public-private partnerships, self-censorship promises from the entertainment industry, and endless analysis. He was referring to NATO's bombing of the Chinese embassy in Belgrade.

Clinton then told the audience that the goal of today's event wasn't to "place blame but to shoulder responsibility." Responsibility is Washington-speak for expanding government power, this time

How do you reconcile complaining about media violence with the bombing of Serbian civilians asked a reporter. Clinton replied: "Parents should shield younger children." Especially if they live in Belgrade.

under the pretext of preventing youth violence. He announced that the surgeon general would be preparing a report on the causes of youth violence. He also said that television sets would soon have V-chips in them.

When I arrived at the White House Press Room at 12:25 p.m., the corps were in the "wait" stage of the hurry-up-and-wait drill that is the life of political reporters and camera people. Reporters sat reading in the dimly lit press room; a half-dozen or so camera operators sat reading and gabbing at a "stakeout"—a bank of cameras and microphones—just to the right of the West Wing's northern entrance. Out back in the Rose Garden, White House staff members were setting up the president's podium, press gallery, and select seating.

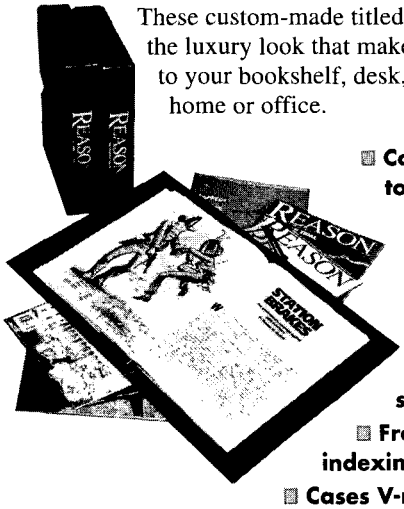
At around 2 p.m., an hour late, the call came for the press to assemble and be escorted out to the Rose Garden. Behind the garden sat a noticeable patch of tilled dirt, a rectangle a bit larger than a basketball court. Perhaps, I said to my neighbors, Clinton is allowing Al to do a bit of farming to add authenticity to his claims. A love swing hung from a tree in back of the Oval Office, adjacent to the president's putting green. There was speculation about the swing's purpose and past, but a seasoned reporter indicated that all the good stuff goes on inside.

Our banter was interrupted by an an-

ORGANIZE AND PROTECT YOUR COPIES OF

REASON

Now there's an easy way to organize and keep copies of REASON readily available for future reference.



These custom-made titled cases and binders provide the luxury look that makes them attractive additions to your bookshelf, desk, or any location in your home or office.

- **Cases and binders designed to hold a year's issues (issue sizes will vary).**
- **Constructed of heavy reinforced board, covered with durable leather-like material in red.**
- **Title hot-stamped in silver.**
- **Free personalization foil for indexing year.**
- **Cases V-notched for easy access.**
- **Binders have special spring mechanism which allows magazines to be fully opened for easy readability.**

REASON

Jesse Jones Industries
Dept. 95RSN
499 East Erie Avenue
Philadelphia, PA 19134

Quantity	Cases	Binders
One	$ 8.95	$11.25
Three	24.95	31.85
Six	45.95	60.75

Add $1.50 per case/binder postage and handling. Outside USA $3.50 per case/binder (U.S. funds only). PA residents add 7% sales tax.

Please send _____ cases; _____ binders for REASON Magazine.

Enclosed is $ _____

☐ Charge my: (minimum $15)
☐ American Express ☐ Visa
☐ MasterCard ☐ Diners Club

Card # _____

Exp. Date _____

Signature _____

Charge Orders: Call Toll Free 7 days, 24 hours 1-800-825-6690

Name _____
Please Print

Address _____
No P.O. Box Numbers Please

City _____

State/Zip _____
Allow 4-6 weeks for delivery.

nouncement that the summit participants would be entering the garden. As the participants shuffled in, taking their assigned spots on a two-tiered riser, a voice hailed the arrival of The President and Hillary and The Vice President and Tipper.

Bill was first up, telling us how the summit was everything he had hoped for, "where everyone was talking about problems and opportunities and everyone was talking about the work to be done." He delivered his usual blather about how important it is to "overcome the old ways of doing business," as he launched a new campaign against teen violence, modeled on his successful campaign not to impregnate any teens. He challenged parents to turn off the television and heed Al Gore's advice to keep an eye on the computer screen. He mentioned a "coarsening of the culture" but didn't expand on his role in turning the copy churned out by national news desks into badly written letters to *Penthouse Forum*.

The best line, however, came from his wife, perhaps the next senator from New York. Said Hillary, in a truly profound moment, "I think everyone who participated in the meeting this morning came away with the positive feeling that there isn't any problem that we face when it comes to our young people that if we are honest enough to talk about it we can come up with ideas about how to address it and we can better empower all parts of our society to be part of the solution." There's just nothing that we can't do or agree on, if we avoid any specifics and speak in run-on sentences.

The White House is clearly worried about Al's presidential prospects. In addition to the plot of land, it is giving him other important and symbolic tasks. Yesterday, for example, he seemed to have been allowed to take the minutes at the summit. As everyone sat roasting in the afternoon sun, Gore gave a virtual play-by-play of the four-hour meeting, making his speech by far the longest.

"Better parenting is the main and best solution," Gore allowed, in the obligatory reference to the important role parents play in raising good kids. All adults, according to Al, must take more responsibility for becoming involved in the lives of all children. He mentioned Maya Angelou's comments on the epidemic of rage and cynicism, plugged early childhood education and after-school care, and described the need for more mental health services. Al's clearly positioning himself to capture the crazy vote. (His wife is hosting the first ever White House Conference on Mental Health in June.) Babbling Al just went on and on and on, beginning nearly every sentence with "We talked about..."

After Gore finished, a 17-year-old student reporter in a purple shirt got Bill's attention with a zinger, as the president made his way back to the White House. How do you reconcile complaining about media violence with the bombing of Serbian civilians the young man asked. I wasn't close enough to hear the president's answer, which he delivered in a soft tone. But according to David Lightman of the *Hartford Courant*, Clinton replied: "[Parents] should shield younger children." Especially if the parents live in Belgrade.

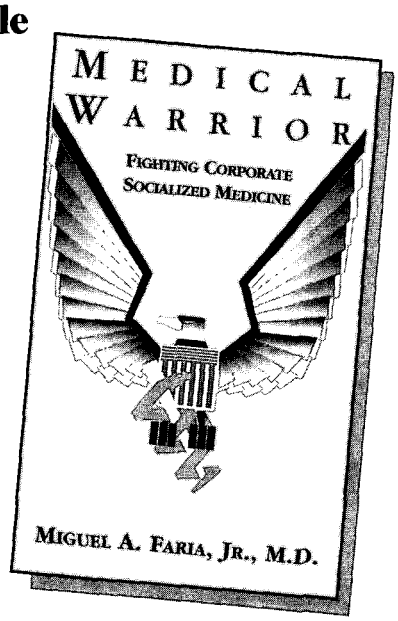
"At Last! The Much Awaited Book Is Here..."

"With his masterful grasp of history and his ingenious insight into economics, philosophy, politics, and human nature, Dr. Faria has provided us with an enormous contribution to the recent literature on health care reform, and an important weapon in our life-or-death struggle to preserve private medicine."

– Jerome C. Arnett, Jr., M.D.
Medical Sentinel

A Powerful Remedy

Miguel A. Faria, Jr., M.D. argues that managed care and HMOs are not "free market" alternatives, but rather an unholy partnership of government and corporate interests seeking monopolistic government protection to eliminate competition...while changing the ethics of medicine from a Hippocratic ethic to a veterinary corporate morality. Dr. Faria not only tackles corporate socialized medicine and the ethics of managed care, but also confronts collaboration, opportunism, and expediency within the ranks of organized medicine. *Medical Warrior* offers workable solutions to restore medicine to its rightful place.



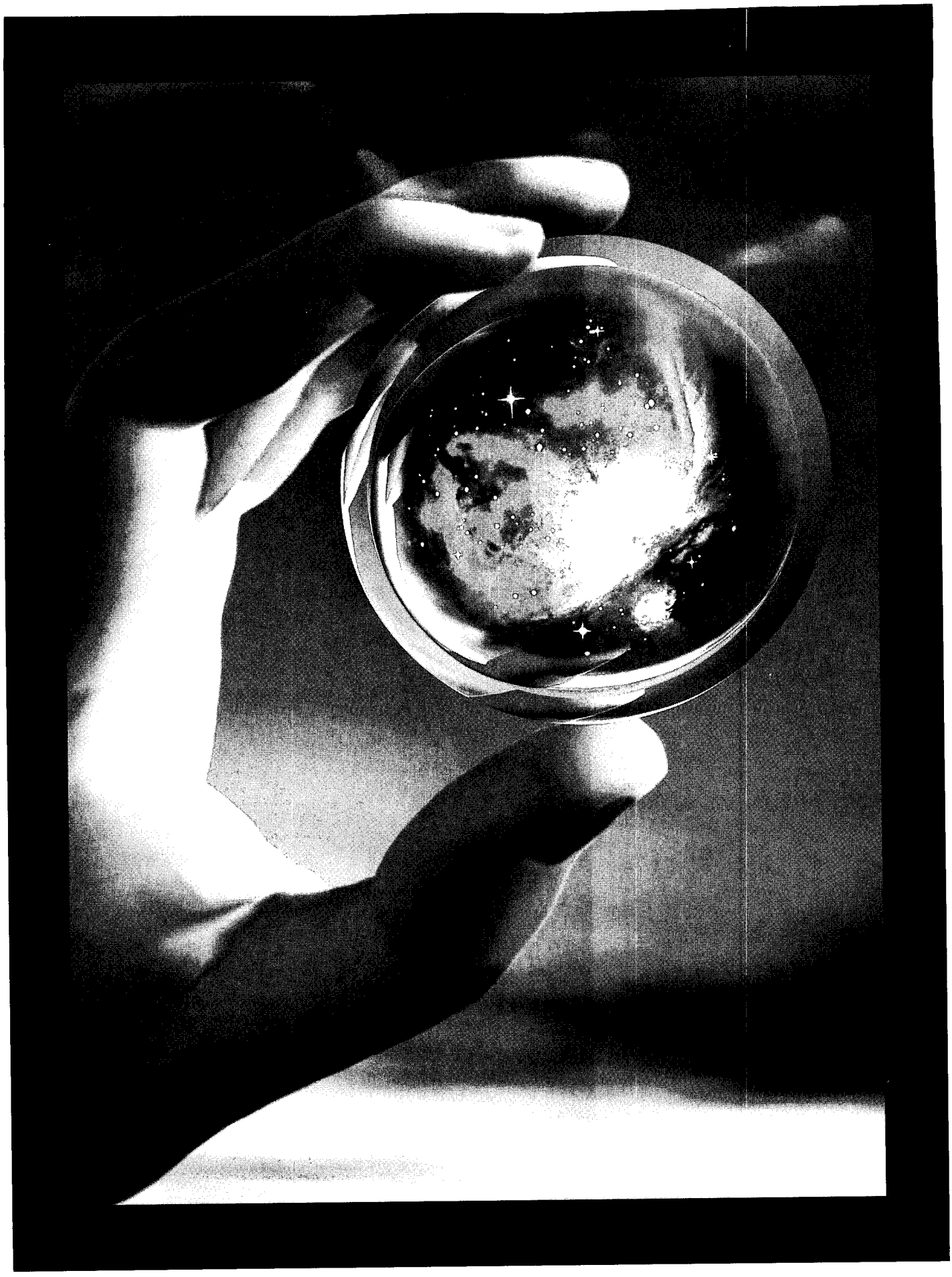
ISBN Number 0-9641077-2-4

➤ Order Direct
$23.95
Add $3 shipping and handling

800-757-9873

Hacienda Publishing

P.O. Box 13648 • Macon, Georgia 31208-3648 • Fax 1-912-757-9725



JAY KOELZER

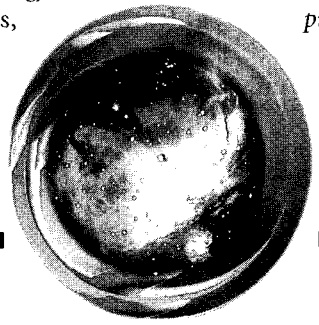
Is God *in the Details?*

From cosmic coincidence to conservative cosmopolitics
By Kenneth Silber

Victor J. Stenger has created new universes. Lots of them. In some, the stars shine for only a fraction of a second. In others, atoms are the size of tennis balls and a typical day lasts trillions of hours. Stenger achieves these wildly disparate results by altering a few of the underlying "constants" of nature—the mass of a proton, for example, or the strength of the electromagnetic force. He ends up with worlds that look radically different from our own.

Stenger is a theoretical physicist at the University of Hawaii and author of a book titled *The Unconscious Quantum: Metaphysics in Modern Physics and Cosmology.* His "universes" are computer simulations, the output of a program that he wrote and has named—a bit provocatively—"Monkey God." Stenger does not plan out the universes that he creates; he has allowed particle masses and force strengths to vary randomly, many orders of magnitude different from the levels observed in nature. A lot of the resulting universes, says Stenger, "look pretty funny but still had long-lived stars."

The behavior of stars and atoms in imaginary universes might seem like a topic unlikely to interest anyone who is not a theoretical physicist. Yet Stenger's calculations pertain to an issue that was initially raised by physicists but has lately echoed far beyond the scientific community—even spilling onto the covers of popular magazines and into the world of politics. The issue is an apparent "fine-tuning" of the laws of physics, a set of circumstances without which humans would not exist. And Stenger, with his computer universes, is trying to inject a note of reality into a public discussion that has run far afield of the relevant science.



There is no good reason, says physicist Victor J. Stenger, to "assume that there's only one kind of life possible"—we know far too little about life in our own universe, let alone "other" universes, to reach such a conclusion.

A Custom-Made Universe

"Science Finds God," trumpeted a *Newsweek* cover story in July 1998. The article, by journalist Sharon Begley, ranges broadly across modern physics, finding various possible links to theology. Some of these links seem little more than metaphorical; for example, electrons behave simultaneously like waves and particles, and (perhaps similarly) Jesus is understood by Christians to be both human and divine. But Begley also cites what seems like real evidence of divine action: "Physicists have stumbled on signs that the cosmos is custom-made for life and consciousness. It turns out that if the constants of nature—unchanging numbers like the strength of gravity, the charge of an electron and the mass of a proton—were the tiniest bit different, then atoms would not hold together, stars would not burn and life would never have made an appearance."

"Science Sees the Light," announced *The New Republic* last October. This cover story, by journalist Gregg Easterbrook (and adapted from his book *Beside Still Waters: Searching for Meaning in an Age of Doubt*), also raises the fine-tuning question. Easterbrook writes: "Researchers have calculated that, if the ratio of matter and energy to the volume of space, a value called 'omega,' had not been within about one-quadrillionth of one percent of ideal at the moment of the Big Bang, the incipient universe would have collapsed back on itself or suffered runaway relativity effects. Instead, our firmament is stable and geometrically normal: 'smooth,' in the argot of cosmology postdocs."

George F. Will seems to be impressed. Citing Easterbrook's book, Will writes in his *Newsweek* column that the "news from the cosmos" is "staggeringly implausible" and therefore "theologically suggestive." Humanity owes its existence, Will notes, to the delicate balancing of forces in the early universe: "The odds against us were—this is just the right word—astronomical." The conservative columnist muses that soon "the American Civil Liberties Union, People for the American Way, or some similar faction of litigious secularism will file suit against NASA, charging that the Hubble Space Telescope unconstitutionally gives comfort to the religiously inclined."

Easterbrook's article, despite its bold headline, is hedged with uncertainties; he notes that the value of omega and other seemingly improbable features of the universe might yet lend themselves to a naturalistic explanation. A different tone is set by Patrick Glynn, whose 1997 book *God: The Evidence* asserts that recent scientific developments constitute a "powerful—indeed, all-but-incontestable—case for what once was considered a completely debatable matter of 'faith': the existence of soul, afterlife, and God." Glynn, who served as an arms control expert in the Reagan administration, writes frequently for *National Review* and other conservative magazines.

Glynn's argument incorporates psychological and medical

issues (including reports of "near-death experiences"). But much of his book is about physics. Glynn writes that physicists have discovered "an increasingly daunting and improbable list of mysterious coincidences or 'lucky accidents' in the universe—whose only common denominator seemed to be that they were necessary for our emergence." Even "minor tinkering" with the strength of gravity and other forces, or with the masses of subatomic particles, writes Glynn, "would have resulted in an unrecognizable universe: a universe consisting entirely of helium, a universe without protons or atoms, a universe without stars, or a universe that collapsed back in upon itself before the first moments of its existence were up."

According to Glynn, this all amounts to a momentous scientific discovery, one that goes by the name "the anthropic principle." This term was introduced by cosmologist Brandon Carter at a conference in 1973, but according to Glynn, Carter presented the idea "in an unfortunately technical and roundabout way," such that its full implications were slow to be recognized. What is the anthropic principle? "In essence," Glynn writes, the principle "came down to the observation that all the myriad laws of physics were fine-tuned from the very beginning of the universe for the creation of man—that the universe we inhabit appeared to be expressly designed for the emergence of human beings."

God: The Evidence, which was recently reissued in paperback, has received favorable reviews in the conservative press. Moreover, Glynn's exposition of the anthropic principle has been greeted with enthusiasm in conservative intellectual circles, where arguments for natural "design" were previously limited to critiques of evolutionary biology. In *The Wall Street Journal*, editorial page assistant editor Melanie Kirkpatrick writes approvingly that Glynn's "thesis is that the scientific discoveries of the past 25 years, especially in the physical sciences, have refuted the idea of a 'random universe'—the modern idea that human life was a chance event—in favor of the 'anthromorphic [sic] principle': the idea that there is an intelligent guiding hand at work." Similar compliments were published in *The Washington Times*, *Insight*, and *National Review*.

Robert Bork, whose favorable blurb adorns the dust jacket of *God: The Evidence*, takes note of Glynn's argument (expressed in an earlier *National Review* piece) in his own book *Slouching Towards Gomorrah*. Bork writes that "the argument from design is now bolstered by the findings of physics concerning the Big Bang. We now know that there were a great many 'coincidences' at the outset of the universe that were essential if life was to exist." These "findings," coupled with arguments for creationism in biology, provide Bork with a ray of hope in his otherwise grim assessment of current intellectual trends. "Religion," he asserts, "will no longer have to fight scientific atheism with unsupported faith."

Glynn, for his part, is positively exultant. He explains, in a March 1998 interview with *Insight*, that "the anthropic principle is a major turning point in Western intellectual history—a major, major turning point—because it really marks the end of the modern period when mechanism was triumphant, when the view of the universe as matter and motion was triumphant. The anthropic principle undercuts that completely." He adds: "The anthropic principle puts the antitheists, the people who are arguing against the existence of God, in a very tough spot."

Carbon Chauvinism

To evaluate such claims, it is necessary first to clarify some confusing terminology. The "anthropic principle" is a much-discussed concept among physicists. Most of this discussion, however, has nothing to do with intelligent design. This is because the "principle" has multiple definitions and shades of meaning. A crucial distinction is between the "strong anthropic principle" and the "weak anthropic principle." The "strong" version is an argument for design (or, in some variations, that the universe somehow "requires" that life exist). The "weak" version, by contrast, is generally what physicists mean when they discuss the anthropic principle.

The "weak" anthropic principle, simply stated, is that life *does* exist and the laws of physics allow this to occur. That might sound like an obvious point, but it can produce useful insights. In the 1950s, for example, astronomer Fred Hoyle predicted a particular "resonance," or energy level, for the nuclei of carbon atoms. Subsequent experiments proved him correct. How did Hoyle know? Because without such a resonance, stars would not produce much carbon—and life as we know it would not exist. (Of course, it does not necessarily follow that the carbon resonance was "designed" or "required" for that purpose.)

Moreover, the term *anthropic* may be misleading, as it implies that the laws of physics have some particular suitability for humans, as opposed to other species. But in fact, the "fine-tuning," such as it is, appears compatible with the entire range of life on Earth, past and present. Mathematician David A. Shotwell, commenting on Glynn's book in *Skeptical Inquirer* magazine, writes: "Perhaps the Creator, if there is one, really wanted to produce dinosaurs, and we [humans] are an unimportant byproduct of the enterprise. It might be objected that dinosaurs are, after all, extinct. That is true enough, but does anyone think that we will be here forever?"

Furthermore, if dinosaurs were not the objective, Shotwell points out, then it might be "insects, the most successful of all life forms. The total number of them is somewhere in the trillions, as compared with only a few billion humans." Shotwell therefore proposes an "entomologic principle," which states that the laws of physics were fine-tuned to produce insects. (The late astronomer Carl Sagan took this line of thinking even further, proposing a "lithic principle." The universe, Sagan observed, seems exquisitely fine-tuned to produce rocks.)

Leaving aside questions about what species may be favored, it may still seem remarkable that, as *Newsweek* puts it, "life would never have made an appearance" in a slightly different universe. But any such claim requires considerable assumptions about both life and the universe. That, in fact, is the point made by the University of Hawaii's Stenger and his "Monkey God" program. Stenger allowed the strengths of forces and the masses of particles in his "universes" to vary randomly across ten orders of magnitude (in other words, as much as 100,000 times more or 100,000 times less than their values in nature). The resulting "universes," in most cases, had stars lasting over a billion years—an apparently crucial prerequisite for the evolution of life.

To be sure, most of these propitious "universes" would be unlikely to produce humans, insects, or other carbon-based life forms such as exist on Earth. But they might well allow *something* to evolve. There is no good reason, says Stenger, to "assume that there's only one kind of life possible"—we know far too little about life in our own universe, let alone "other" universes, to reach such a conclusion. Stenger denounces as "carbon chauvinism" the assumption that life requires carbon; other chemical elements, such as silicon, can also form molecules of considerable complexity. Indeed, Stenger ventures, it is "molecular chauvinism" to assume that molecules are required at all; in a universe with different properties, atomic nuclei or other structures might assemble in totally unfamiliar ways.

But what about the fine-tuning of something called "omega," without which the universe would have, as Easterbrook puts it, "collapsed back on itself or suffered runaway relativity effects"? Isn't this, as George Will writes, "theologically suggestive"? Actually, this particular cosmic mystery may have already been solved, without recourse to theology. The answer lies in the theory of cosmic inflation, first developed by MIT physicist Alan Guth and now widely accepted among cosmologists. Inflation theory states that the early universe underwent a brief period of exponential growth before settling into the slower expansion seen since. And the relevant point here is that omega (which is a measure of the "curvature" of space) is not a constant; it changes with time.

Easterbrook writes that omega had to be "within about one-quadrillionth of one percent of ideal at the moment of the Big Bang." But actually, omega could have started out at just about any number, and it still would have hit the required "ideal." Why? Because this ideal is a very special number: one. If omega equals one, the universe is perfectly "flat" or "smooth" (whereas numbers higher or lower mean its geometry is warped by matter and energy). Now, think of a balloon; as it inflates, its surface becomes increasingly flat and smooth. And if the universe (or a balloon) is inflating exponentially—which is to say, extremely fast—then its geometry will get extremely flat very quickly, no matter how wrinkled it may have been before.

As Guth explains in his book *The Inflationary Universe*, "With inflation, it is no longer necessary to postulate that the universe began with a value of omega incredibly close to one. Before inflation, omega could have been 1,000 or 1,000,000, or 0.001 or 0.000001, or even some number further from one. As long as the exponential expansion continues for long enough, the value of omega will be driven to one with exquisite accuracy." Moreover, in the billions of years since, as stars and galaxies formed, the curvature of space likely has drifted from its "fine-tuned" value. (In case you're curious, current astronomical evidence indicates omega is somewhere between 0.1 and two.)

"Mathematics works. Religion doesn't," says Rocky Kolb, a cosmologist at the Fermi National Accelerator Laboratory in Illinois. Kolb is not denouncing religion. Rather, he is saying that the "strong" anthropic principle—the argument for design—merely cuts short further study of phenomena such as cosmic inflation. And the "weak" principle, he notes, is essentially a stopgap tool, not an explanation of anything. "If you just shrugged your shoulders and mumbled 'anthropic principle,' then science doesn't advance," says Kolb. "Sometimes, the alternative to the anthropic principle is work."

A Vast Froth of Bubbles

Why do the seeming "constants" of nature—the strengths of forces and the masses of particles—have the values that they have? It may be that they are not constants at all. Much current work in cosmology points to two remarkable, and interrelated, possibilities: What we regard as the universe may in fact be just one part of a far larger "multiverse." And the laws of physics may have "evolved" in a process similar to natural selection in biology. These ideas remain speculative, but they cast the "fine-tuning" issue in a whole new light—and they do so without invoking intelligent design.

According to theories of the multiverse, the Big Bang was not a unique event. Instead, numerous "big bangs" have occurred—and continue to do so, in regions beyond our observational horizon. Each "bang" leads to a new universe, one bubble in a vast froth of bubbles. (One might object that the "universe" by definition is everything that exists, but its expanded scope if such theories are correct has given rise to the "universe/multiverse" terminology:) Different universes contain different combinations of forces and particles. If the range of combinations that support life is narrow, then the multiverse might be littered with uninhabited bubbles. But in at least one universe, the "constants" are suitable for carbon-based life.

The latter may be just a matter of chance. Given enough universes, sooner or later one is likely to hit upon the "right" combination for life (even assuming only one type of life is possible). But there may be more to it than that. Consider the theory of "cosmological natural selection" proposed by

Penn State physicist Lee Smolin and detailed in his 1997 book *The Life of the Cosmos*. In this theory, our universe emerged from a black hole in a previous universe; moreover, each black hole in our universe (and other universes) generates yet another universe. Universes that produce lots of black holes therefore have more "progeny" than universes that don't. The laws of physics are reshuffled slightly with each black hole, and increasingly the multiverse is dominated by universes whose laws are "fine-tuned" to produce black holes.

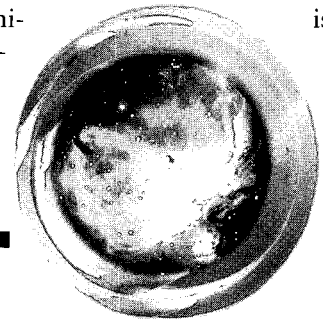
So what? Well, black holes are formed when massive stars collapse. Stars are massive if they contain heavy elements—elements such as carbon. The selection process thus gives rise to universes such as our own, where carbon and other heavy elements are available as the building material for life.

In *God: The Evidence*, Glynn dismisses all multiple-universe theories, including Smolin's. These, he argues, are contrivances produced by "secular-minded scientists" to explain away the evidence for design. Glynn writes that "some scientists have speculated that there may exist billions of 'parallel' universes—which, mind you, we will never be able to detect—of which ours just happens to be one. If there were billions of invisible universes, then the series of miraculous coincidences that produced life in this one might not seem so unlikely." Such theories, according to Glynn, are "reminiscent of medieval theologians' speculations about the number of angels that could dance on the head of a pin."

But is the multiverse so far-fetched? The Big Bang seems to have occurred under conditions of extremely high density; similar conditions occur throughout our universe—in black holes. Similarly, Stanford cosmologist Andrei Linde argues that the fast inflation of the early cosmos—which requires merely a small region of curved space, or "false vacuum," to get started—implies a "self-reproducing" universe. The assumption that there are *not* multiple universes seems unwarranted by current evidence. Says Stenger: "There's no law of any kind that we know that says this could only have happened once. In fact, you'd have to invent a law of nature to explain why there was only one universe."

Moreover, while we may "never be able to detect" other universes, there are indirect ways to assess whether they exist. If Smolin's theory of cosmological natural selection is correct, then our universe should be "optimized" for black-hole production. This can be tested; for instance, a particle known as the kaon, which can be created in particle accelerators, should have a mass in the "correct" range to ensure that neutron stars eventually become black holes. So far, the theory has held up under such testing, but the evidence is inconclusive.

Perhaps surprisingly, however, Smolin is hoping that the theory as stated in his book is false. He's not particularly fond of its multiple universes. "I would be very, very happy if in the final picture we got rid of it," he says in an interview. "That it was just a kind of way station." A way station to what? To a similar theory in which the laws of physics undergo "natural selection" entirely within our universe. In such a theory, different regions of the early universe "compete for dominance," some expanding faster than others. That is what he is working on now, and he is trying to make it testable.



Has physics found God? The evidence is, at best, highly ambiguous. Some of it points in an opposite direction—toward a universe that can appear marvelously fine-tuned even if there is no Fine Tuner.

Politics By Design

Has physics found God? The evidence is, at best, highly ambiguous. Some of it points in an opposite direction—toward a universe that can appear marvelously fine-tuned even if there is no Fine Tuner. Certainly, not many physicists are prepared to announce that a cosmic plan has been unveiled. The few cosmologists who favor the "strong" anthropic principle usually defend it as plausible speculation, not established fact. (And even the "strong" principle has versions that seem unrelated to religion.)

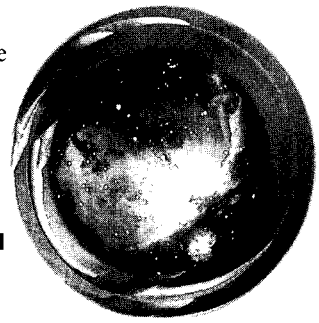
How then did this arcane scientific discussion get converted into popular articles and books touting evidence of the divine? The answer no doubt lies partly in the exigencies of media sensationalism. Had *Newsweek* proclaimed on its cover "Science Still Not Sure About God," then newsstand sales would have slumped that week. Had *The New Republic* headlined its cover story "Science Sees a Blurry Picture That May Have Something to Do With God but Mainly Just

Shows the Universe Is an Interesting Place," it would have lacked the pungency of "Science Sees the Light" (though it would have more accurately reflected Easterbrook's article).

But what about the conservatives who have embraced the "anthropic" design argument? They seem to have more serious priorities than merely titillating readers. Glynn points to "the mischievous consequences of atheistically inspired social policy and social experimentation." These consequences, in his telling, range from Soviet atrocities to America's sexual revolution, with its "explosion in teenage pregnancies" and "epidemic of sexually transmitted diseases." Now, however, "the anthropic principle" is replacing "the random universe," and the scientific basis for atheism is crumbling. Bork, for his part, welcomes evidence for design in nature because it lends support to religious belief, and "such belief is probably essential to a civilized future."

Clearly, these conservatives have found an interpretation of cosmology that is congruent with their political beliefs. Yet that doesn't mean the interpretation is presented insincerely. Ronald Bailey has speculated in REASON that conservative opponents of Darwinism might be following a tenet of philosopher Leo Strauss: that religious belief is unfounded but still required by society. (See "Origin of the Specious," July 1997.) But in *God: The Evidence*, Glynn denounces the Straussian position; moreover, he traces his own spiritual crisis and recovery of religious belief with considerable emotion. He clearly means what he says about both God and the anthropic principle.

Nor is there any reason to doubt the sincerity of Bork, Will, or other conservatives who have discovered evidence of design in the laws of physics. In many cases, however, there is plenty of reason to doubt their knowledge. Bork and Will make sweeping statements about the universe based on a cursory reading of popular accounts. *The Wall Street Journal*'s and *The Washington Times*' reviewers of Glynn's book accept at face value his misleading definition of the anthropic principle. Glynn devotes four pages to a puerile analogy about monkeys with typewriters. (Yes, if the monkeys are assumed to be unchanging beings with limited capacities, they would never type Shakespeare. It does not follow that the universe is subject to similar constraints.)



The traditional argument for design is that nature is too inhospitable *for life to have evolved. The "anthropic" design argument is that nature is eerily* hospitable *to life. If both are true, it's a strange universe indeed.*

It is hard to believe that the "anthropic" conservatives have contemplated the full implications of their position. There is, to begin with, a theological puzzle. Why would an omnipotent or highly powerful deity *need* to fine-tune physical laws? Such tinkering seems to set limits on what the Fine Tuner can do. Did this entity have no choice but to produce carbon-based life—or would other physical laws have generated other types of life? (If the latter, then the fine-tuning argument collapses.) If the laws of physics were not compatible with our type of life—and yet we were here—wouldn't *that* be evidence for God?

Moreover, if there is now evidence for God's existence, what happens if the evidence doesn't hold up under scrutiny? Religious *faith* need never be damaged by a scientific advance; one can always believe that a powerful deity intervenes in the universe while erasing all proof of such intervention. But *evidence* can be overturned or reinterpreted any time (as appears to have already happened with the "fine-tuning" of omega). Won't society be harmed if the strength of gravity or the mass of the proton turn out not to have the religious implications that conservatives have publicized?

Finally, what does the apparent fine-tuning in physics imply for biology? Glynn claims that the fossil record shows that "natural selection is not the magic bullet biologists once thought it was." Bork states that the complexity of organisms could not have evolved unaided. But if the cosmos is precisely fine-tuned for the development of life, then why is further tinkering required? The traditional argument for design is that nature is too *inhospitable* for life to have evolved. The "anthropic" design argument is that nature is eerily *hospitable* to life. If both are true, it's a strange universe indeed. ◆

Kenneth Silber (ksilberny@aol.com) has written about science and technology for The New York Post, The Washington Times, Insight, Commentary, *and other publications.*

PAID ADVERTISEMENT

Do Rights Come from the Constitution?

by Jacob G. Hornberger

It is commonly believed that the rights of the American people come from the Constitution. Nothing could be further from the truth.

Throughout history, the standard belief was that people were unconditionally subject to the commands of their government. If the king ordered a person to leave his family to fight in a war thousands of miles away, that person would have to obey. The king could control and regulate both lives and property because he was sovereign and supreme, and the citizens, as subjects, were subordinate and inferior. When the king commanded, people obeyed.

Gradually, people began questioning the notion of the king's having unrestricted control over their lives and fortunes. For example, in 1215, with Magna Carta, the king was forced to admit that his powers over the citizenry were limited.

It was in 1776, however, with the publication of the Declaration of Independence, that the historical concept of sovereignty got turned upside down. Government wasn't sovereign and supreme, Jefferson declared to the world. Individuals are. And government officials are subordinate and inferior to the citizenry.

The Declaration emphasized that men have been endowed with certain fundamental and inherent rights that preexist government. In other words, man's rights don't come from the king or from any other government official. Rights such as life, liberty, property, and the pursuit of happiness exist independently of government, not because of government.

It also emphasized that the reason people call government into existence is to protect the exercise of these rights. That is, in the absence of government, antisocial people such as murderers, rapists, and thieves would make life quite miserable for everyone else. Therefore, government is needed to arrest, prosecute, and punish these types of people.

What happens when government transgresses its rightful duty of protection and becomes more destructive than what would be the case in the absence of government? The Declaration tells us that it is the right of the people to alter or abolish that government and to implement a new government that is designed to protect, not destroy, the exercise of man's natural or God-given rights.

The quandary, of course, that our Founders faced was whether it was possible to bring a government into existence that would remain limited to an inferior and subordinate role rather than attempt to assume the more traditional sovereign and supreme role.

In 1787, the Founders attempted to solve the problem by writing a Constitution that called the federal government into existence. The result was historically significant: The Constitution made it clear that this government, unlike others in history, would not be one of unlimited powers. Instead, by the express terms of the Constitution itself, the federal government would be one of limited, enumerated powers. For example, the powers of Congress are limited to those enumerated in Article 1, Section 8 of the Constitution.

Thus the correct question is not "What rights does the Constitution give to the American people?" but rather "What powers does the Constitution grant to the government?" If a certain power is not enumerated, the government is not permitted to exercise it.

Not trusting government officials, however — even democratically elected ones — the American people ensured the passage of the first 10 amendments to the Constitution. These should more appropriately have been called the "Bill of Prohibitions" than the Bill of Rights. Why? Because a careful examination reveals that they are express restrictions on government powers rather than a grant of rights to the citizenry.

Some people argued that a Bill of Rights was unnecessary because government's powers were already limited to those enumerated in the Constitution itself. Since the government has not been given the power to regulate speech, for example, there was no reason to have an express prohibition against the regulation of speech.

Fearful, however, of the propensity of government to move toward dominance and control, the people felt safer with express restrictions on the power to interfere with rights that they believed were of the utmost importance. Playing it safe, they included the Ninth Amendment: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

So the next time someone refers to your "constitutional rights," remind him that people's rights don't come from the Constitution. And if you really want to stimulate thinking, ask him whether he believes that today the federal government is destructive of the very rights it was designed to protect.

Mr. Hornberger is founder and president of The Future of Freedom Foundation.

THE FUTURE OF FREEDOM FOUNDATION
11350 Random Hills Road, Suite 800
Fairfax, VA 22030
Phone: (703) 934-6101 • Fax: (703) 352-8678
E-mail: FFFVA@compuserve.com
http://www.fff.org

THE FUTURE OF FREEDOM FOUNDATION

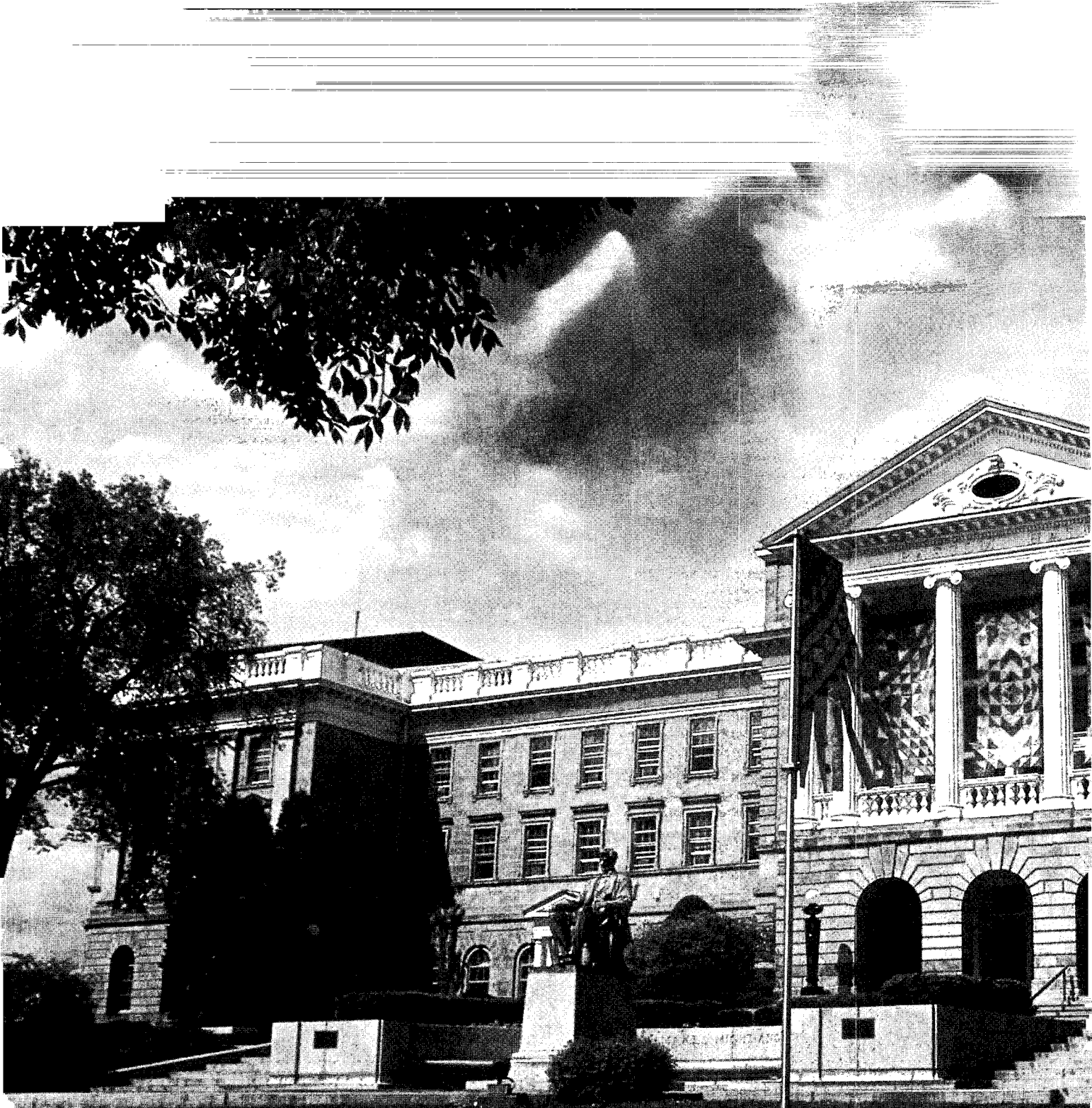
We Don't Compromise.

Order:
FFF E-mail update at no charge.
Editorials, media appearances, speeches, and activities
(Send "subscribe" to FFFVA@compuserve.com)

and

Order:
One-year (12 months) subscription to *Freedom Daily*
(FFF's monthly journal of libertarian essays)
at $18.
Send to FFF
11350 Random Hills Road, Suite 800
Fairfax, VA 22030

PAID ADVERTISEMENT



CRACKING THE SPEE

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BY ALAN CHARLES KORS

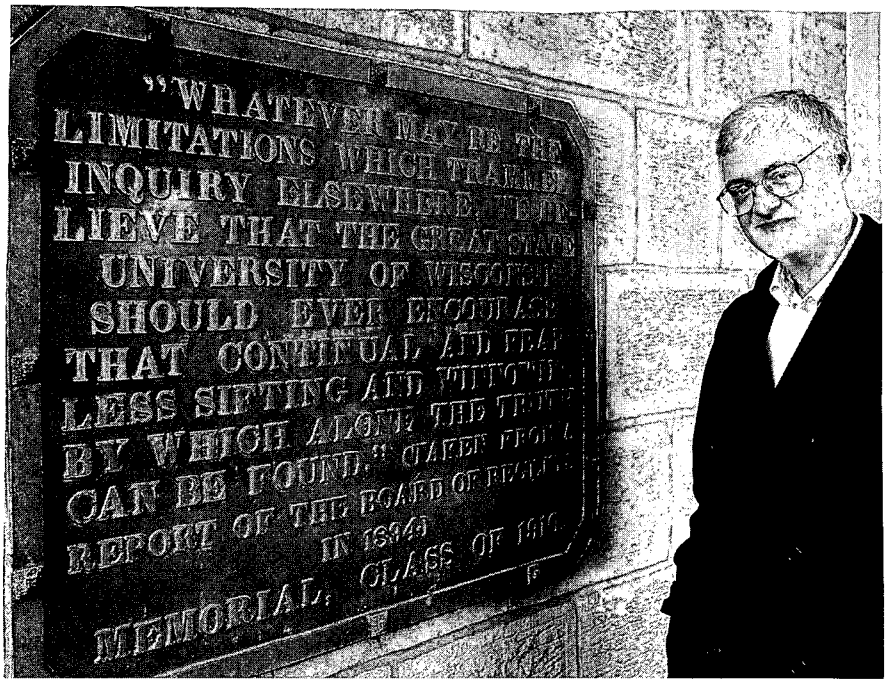
JEFF MILLER

When the University of Wisconsin sat down to evaluate its repressive faculty speech code, nobody expected free speech to win. Here's how it happened.

For some 15 dark years, American academia has acquiesced in, if not demanded, the suppression of its most fundamental rights. Speech codes—the "verbal conduct" restrictions in colleges' "harassment" policies—have been pervasive on our campuses.

During this time, there have been a few minor free speech victories. On some campuses, defenders of liberty modified the worst aspects of speech restrictions; on others, students or faculty used media attention and ridicule to force administrators to abandon the most embarrassing parts of their codes. At a few state schools, students sued for their constitutional rights and won. Now, however, a faculty has itself voted to restore its freedom of speech. On March 1, 1999, the Faculty Senate of the University of Wisconsin at Madison surprised almost everyone by voting to abolish the code that had regulated professors' speech for more than a decade.

For a year and a half, Wisconsin had been weighing only two choices: to keep or to modify the code. No one thought that there could be a successful third option: free speech. Liberty's at least temporary victory in Madison, won with the telling in-


"WHATEVER MAY BE THE
LIMITATIONS WHICH TRAMMEL
INQUIRY ELSEWHERE WE BE-
LIEVE THAT THE GREAT STATE
UNIVERSITY OF WISCONSIN
SHOULD EVER ENCOURAGE
THAT CONTINUAL AND FEAR
LESS SIFTING AND WINNOWING
BY WHICH ALONE THE TRUTH
CAN BE FOUND." TAKEN FROM
REPORT OF THE BOARD OF REGENTS
IN 1894
MEMORIAL CLASS OF 1910

Winnow Dressing: Speech code opponent and political scientist Donald Downs stands in front of a plaque articulating the University of Wisconsin's vaunted "sifting and winnowing" approach to academic freedom.

volvement of students, had its own context, its revealing contingencies, and, above all, its heroes.

A Winnowing Tradition

The difficulty of restoring free speech at Wisconsin is ironic, given the school's dramatic history of academic freedom. In 1894, Oliver E. Wells, a member of the state Board of Regents, charged Professor Richard T. Ely with teaching and advocating "socialism." The board appointed a committee to examine the charges.

Ely was not a stalwart defender of the values that his case came to represent. He allowed that if the charges were true, he should be dismissed, but he denied that he was a "socialist" at all. The committee, however, went beyond Ely's agenda. It not only exonerated him, but proclaimed the value of a campus where one could express oneself without fear: "Whatever be the limitations which trammel inquiry elsewhere, we believe that the great state University of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found."

That commitment to "fearless sifting and winnowing" survived the state's unlamented senator, Joseph McCarthy, but it could not survive political correctness. By 1989, the threat to academic freedom at Wisconsin came from the administration and faculty. Equating "racist" and "sexist" speech with discrimination by race and sex, a faculty committee dominated by law school professors drew up a "code" that banned "racist or discriminatory comments, epithets or other expressive behavior," in "non-academic matters" that were either "directed at an individual or on separate occasions at different individuals." The code gave specific protection to discussions of group characteristics in the classroom, and it explicitly exempted the faculty.

The law professors reassured the university that the code was wholly constitutional, and Chancellor Donna Shalala (now President Clinton's secretary of health and human services) enthusiastically and successfully urged the Board of Regents to adopt it. A group of students, however, supported by the American Civil Liberties Union, challenged the code, and a federal district court declared it manifestly unconstitutional in 1991.

As a result, most Wisconsin faculty members assumed that they enjoyed full freedom of expression within the law. They were wrong. They were still governed by a separate policy, "Prohibited Harassment: Definitions and Rules Governing the Conduct of UW-Madison Faculty and Academic Staff."

This code, drafted in 1981 and given its final form in 1989, prohibited "harmful" speech in both "noninstructional" and "instructional" settings. The latter category, which included speech in classrooms, laboratories, on field trips, and in academic offices, was more protected. Let us, then, examine the policy in its least repressive guise.

Discipline and Punish

The UW code forbade "demeaning verbal and other expressive behavior." The phrase *expressive behavior* included conduct "through which a faculty or academic staff member seeks to communicate with students...[including] but not limited to the use of visual materials, oral and written statements, and assignment of visual, recorded, or written materials." The policy claimed to "protect" the "selection of instructional materials," any "opinion or statement germane to the subject matter of the course in which the behavior occurred," and "expressive behavior related to teaching techniques."

The code existed, however, among other reasons, precisely to permit a faculty member to be charged and "disciplined" for those specific "protected" behaviors. Thus, one's selection of instructional materials lost protection if the claim of germaneness was "clearly unreasonable." The claim of germaneness itself lost protection if it, in turn, was "clearly unreasonable." One's teaching techniques lost protection if "an appropriate hearing or review [found] clearly unreasonable the... claim that the objective cannot be accomplished as effectively by techniques less likely to cause harm."

RICH RYGH, THE CAPITAL TIMES

Everything lost protection if the hearing rejected the claim of protection and found that the behavior was a) "commonly considered by persons of a particular gender, race, cultural background, ethnicity, sexual orientation, or handicap to be demeaning to members of that group"; b) occurred after a prior request not to engage in that conduct "or conduct of substantially the same kind"; and c) the conduct either "interfere[d] with" the student's academic work or made the instructional setting "hostile, or intimidating, or demeaning to members of the group of average sensibilities."

Wholly unprotected, also, were "epithets, comments, or gestures" that demeaned on the basis of "gender, race, cultural background, ethnicity, sexual orientation, or handicap condition," subject, again, to the double criteria of what a group found "disparaging to members of that group" and either interference with "learning or other academic performance" or the creation of a "hostile or intimidating, or demeaning" environment. The policy did not require any proof of intent in instructional harassment.

Of Codes and Kangaroo Courts

The code was breathtakingly vague and offered frightening discretion to any panel charged with implementing it. Professors were investigated for violations of both its instructional and noninstructional provisions, drawing them into long, Kafkaesque procedures where they had no clear knowledge of the charges against them, no confrontation with accusers, and no rights to formal hearings. In short, at a state university, they found themselves both investigated for their speech and deprived of even minimal due process.

A professor of art history, during a period of heated curricular and ideological debate within his department, was treated derisively by students on the other side. Annoyed at a repeated, mocking salutation, he replied to them, "*Sieg Heil!*" As a result, he was investigated for anti-Semitism and other "isms" for a year. A professor of philosophy used the term *Injuns* in a class, and he too was investigated. A professor of history failed to use gender-neutral language, and he, too, was subjected to an inquisition. In the course of such proceedings, professors were asked intrusive questions about their friendships, their views of sexuality, their inner beliefs, and their values.

Defenders of the code now point to the fact that none of these illiberal, unconstitutional, indecent, and chilling investigations led to a single conviction, thus demonstrating the code's acceptability. In fact, its acceptance was largely a product of ignorance. Almost all the professors at Wisconsin with whom I have spoken were unaware for many years that the faculty rules had survived the court's rejection of the student code.

How could the code operate without widespread public knowledge? As is true on most campuses, professors investigated under it simply never spoke to their colleagues about their difficulties (or, if they did, they swore them to secrecy). The issue might be "speech," but the charge might be sexual or racial "harassment," and no one wants such an accusation known. One professor did retain a successful lawyer, who got the school to end its investigation and to pay $12,000 to $15,000 in a confidential settlement.

As the code gradually became known from 1993 on, however, several colleagues of the accused professors became uneasy, and they found it impossible to remain silent.

Free Speech Talks Back

Madison, unlike most American campuses, has had several conspicuous defenders of liberty across the political spectrum. Historian Stanley Payne, for example, formed a Faculty Committee on Academic Freedom and Rights to serve as a legal defense fund for those caught in the web of the speech code. Longstanding opponents of political correctness, such as economist W. Lee Hansen, political scientist Donald Downs, and members of the Wisconsin Association of Scholars all lent their voices to the cause of curbing politicized abuses of power.

Lester Hunt, the professor of philosophy investigated in 1992 for using the term *Injun*, had been astonished when the Office of Affirmative Action gave him a copy of the speech code. Though exonerated, Hunt began to address his colleagues frequently about their real and potential plight under this policy. He also brought speakers to campus to denounce the code, including Alan Dershowitz, who termed it one of the worst he had ever seen, "an abomination."

By 1997, these activities had produced one convert on the University Committee, an elected faculty executive committee of six that organizes much of the agenda of the Faculty Senate, serves as a liaison between that Senate and the administration, and, in theory, works for the interests of the faculty. (The Senate has about 200 members—many of whom do not attend meetings—elected by disciplinary constituency.)

Mary Anderson, a professor of geology, was struck by Payne's, Downs', and Hunt's activities, and convinced her colleagues on the University Committee to open discussions with faculty members who believed that the code trashed free speech rights. They established an ad hoc committee to

How could a speech code operate without widespread knowledge? Professors investigated under it simply never spoke to their colleagues about their difficulties. Or if they did, they swore them to secrecy. The issue might be "speech," but the charge might be sexual or racial "harassment," and no one wants such an accusation known.

Revolting Students: As members of the ad hoc committee, Jason Shepard, Amy Kasper (above), and Rebecca Bretz (opposite center) spoke out forcefully for the abolition of the faculty speech code.

examine the code and recommend possible revisions to the Faculty Senate. Ten voting faculty members served on the ad hoc committee; they would be joined by four academic staff members, named by the staff governing body, and by three students, named by the student government.

The issue was profoundly divisive, but no side succeeded in achieving strategic superiority in the makeup of the ad hoc committee. Of the four staff members, three supported some strong version of the code; one supported its serious revision. Of the 10 voting faculty members, only one, Donald Downs, was a known critic of the policy, and a few were known to be strong supporters. It was not obvious how the other faculty members would vote. The student government interviewed students who desired to serve on the committee, and by all accounts it chose the three who seemed the best informed about the issue, without pressing them on their substantive views.

At the last minute, the University Committee appointed an author of the speech code, law professor Ted Finman, as a nonvoting member of the ad hoc committee, ostensibly to provide it with "expertise." Instead, he dominated its meetings—which were public—convincing many that the university would suffer legally and financially if it did not keep something close to the current code.

Throughout 1997 and 1998, the ad hoc committee met some 40 times. In October 1998, it divided (at first 10–7 and eventually 9–8) between a majority and minority report, issuing both. The majority report called for "reasonable pedagogical justification" for, among other things, a "comment" or "technique" that "debases and degrades students in the class." The minority report charged that such a criterion left too much to the subjective discretion and temper of a hearing panel, and it asked simply for "pedagogical justification." The two sides also differed, without much clarity, over the burden and degree of proof required to convict.

Out of the Mouths of Undergraduates

Undergraduates are potentially the greatest force for restoring liberty on campuses, once they understand the patronizing nature of special protections and selective enforcement. There were, in fact, four diehards for outright abolition on the ad hoc committee—Downs and all three of the students: Jason Shepard, president of the senior class, an openly gay student who had come out in a column in the mainstream campus newspaper and a member of the board of directors of the Lesbian, Gay, Bisexual, Transgendered Campus Center; Amy Kasper, an Asian-American undergraduate; and Rebecca Bretz, a law student.

Those who worry about the future of liberty should take heart from these students. Shepard joined the committee, he tells me, wholly open-minded, but, like the other two students, he kept asking for a "justification" for the code. He was amazed by how little justification the proponents could offer. By the end of three weeks, he and the other two students arrived at a common position, "without caucusing," because of their skepticism about why anyone would want to silence anyone else at a university. "At first," Shepard says, "a lot of faculty members wrote us off, just assuming that being students, we blindly would support a speech code, especially because we were gay, female, and Asian-American female."

In March 1998, Shepard made a motion for outright "abolition" of the code; it attracted only two votes in addition to those of the students and of Donald Downs. From that moment on, Shepard felt obliged to abandon abolition and to work for the most free-speech-friendly committee report possible.

For Shepard, the year's deepest lesson was the gulf between the rhetoric of "minority" student leaders and the views of the constituencies they were supposed to represent. For example, the Ten Percent Society, a gay and lesbian organization on campus, voted in November 1998 on the majority and minority reports of the ad hoc committee. It split down the middle, barely favoring the majority report. On the gay student listserve, many students wrote about the essential value of free speech. The president of the society, however, sent a message saying that now that a vote had been taken, she

JESSE KASENDORF

expected them all to show solidarity and to end any opposition to the stronger version of the code. She informed Shepard, he told me sadly, that he was a disgrace to every gay student at Wisconsin.

To Shepard, this incident signaled "how this small number of leaders is so out of touch with actual minority students." In his words, "There is a handful of self-appointed leftist activists who claim the right to speak for every minority on this campus." Far from being representative of those minorities, these activists "are some of the most authoritarian, oppressive people I've ever met." They try to intimidate a campus and chill debate: "Anyone who challenges their views is called 'sexist,' 'racist,' or 'homophobe,'" he says.

"Although they claim to be fighting for equality and freedom for minority students," he concludes, "they silence any opposition within their minority group." Shepard saw the issue in straightforward terms. "It makes me cringe to defend bigots," he says, "but that's part of what defending the First Amendment is all about."

Amy Kasper also had a problem with so-called student leaders. They testified to almost "universal support" of the code, she tells me, when, in fact, the student body appeared deeply divided on the issue. In the end, she observes, the student government and all minority associations voted to endorse the majority report, but only 3 percent of Wisconsin students had bothered voting for the student government, while the minority groups were divided and had low numbers involved on this issue. Like Shepard, she also thought that everyone simply assumed that the two of them, "students from historically oppressed groups," instinctively would support the code. They were denounced as "dupes" and "traitors" for opposing it.

Kasper had fought against the code from the beginning. Believing that free speech was indispensable to fundamental rights and academic freedom, she was shocked to discover that a faculty code existed at all, and she believed it an obvious violation of the federal and state constitutions. Further, she says, fighting bigotry by means of oppression was useless. Indeed, she insists, it "has the opposite effect; it makes people bitter; and it is a horrible assault upon the conscience."

"The tide is changing," she says. She is sure her generation understands the sad irony of fighting for equal rights with arbitrary power: "History constantly has shown us that every time you give a coercive authority the power to censor, it is abused, and minority groups suffer the most."

Like Kasper, Rebecca Bretz was convinced from the start that there was something absurd about a speech code at a university. Early on, she notes, the three students were in agreement with each other, and, a rarity on committees with a faculty presence, were the most insistent voices. "We all wanted to know what our professors really thought. We didn't want them to be muzzled or gagged."

For Bretz, the fundamental issue was deeper than the legal or semantic technicalities that the committee kept debating: "How could we, as students, expect to have freedom of speech ourselves without our faculty having it?" In her view, the ability to hear both what other people believed and how they spoke was an essential part of her own freedom.

Once the motion for abolition failed, Bretz, Kasper, Shepard, and Donald Downs worked to get the best possible minority report. As Bretz explains, "We fought for abolition, but it was a futile effort." The question became, "What is the next best thing?" Her decision was to work to get the code as close as possible to freedom of expression. She found the situation on the ad hoc committee inherently ironic. The issue was faculty freedom, and the loudest voices on its behalf were those of the students. "We were somewhat surprised at this," she says dryly.

Professor Robert Drechsel, chairman of the committee, tells me one could not overemphasize the "extraordinary importance" of the students on the committee: "The students forced us to consider the most fundamental issues, and they put repeal on the table. They had a great impact by saying, 'You're protecting us, but we don't want that protection.' They were articulate and courageous."

Magna Cum Laude: Ad hoc committee Chairman Robert Drechsel says, "The students forced us to consider the most fundamental issue, and they put repeal on the table. They had a great impact by saying, 'You're protecting us, but we don't want that protection.' They were articulate and courageous."

When Professors Stood Up

In November 1998, the University Committee endorsed the majority report and passed it along to the Faculty Senate for consideration. The Faculty Senate would discuss it at meetings in December and February, then vote on the report in March 1999. The December meeting of the Faculty Senate, however, surprised all parties and changed ev-

erything. One after another, in a wholly uncoordinated event, close to 20 faculty members spoke, almost all standing to reject both the majority and minority reports and to call for abolition, pure and simple. To the astonishment of both sides, the issue stirred not politically correct passions but passions for liberty. Individuals who never had spoken up publicly or expansively on free speech and academic freedom now found their voices; senators who skipped routine meetings now attended to make their views known.

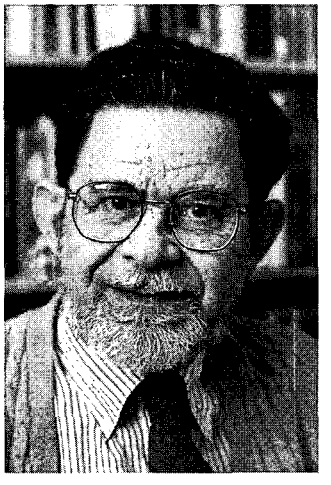
One after another, close to 20 faculty members spoke, almost all standing to reject both the majority and minority reports and to call for the abolition of the speech code, pure and simple. To the astonishment of both sides, the issue stirred not politically correct passions but passions for liberty.

Charles Cohen, a professor of history, began by speaking for the majority report, declaring that "the minority report allows instructors to derogate students with impunity," but he was virtually alone in defending the majority. Indeed, most speakers opposed the notion of any code at all.

Ken Thomas, a psychologist, observed that in one generation Wisconsin had gone from standing for academic freedom to standing for political correctness. He noted that "speech codes are totally inconsistent with the sifting and winnowing tradition," adding that "guests on the Jay Leno show probably fear censorship less than UW professors."

Biochemist Lawrence Kahan reflected on the fact that he used the example of drunken drivers in his classroom: "If you are an alcoholic...you may feel this example derogates you on the basis of your disability." Ken Mayer, a political scientist, proclaimed a speech code similar to a flag burning amendment, calling them both inappropriate.

Movingly, Javier Calderon, a professor of music who described living under dictatorial regimes in Latin America, expressed his dismay that colleagues would limit their own freedoms, describing the Bill of Rights as something "precious." Silvia Montiglio, a classicist, expressed her confidence in students' intellectual powers and denounced the sponsors of speech codes as "ideologues."



The meeting changed everyone's sense of what was possible. In the campus paper, Downs observed that the Faculty Senate "spoke with the language of free men and women," and he noted that "we could become the very first university in the country to take back a code by a faculty vote rather than a court order."

Jason Shepard recalls: "I sat there in awe. I was so moved by it." It made him realize that there was a world in Wisconsin beyond the debates of the previous 18 months. "On the ad hoc committee," he says, "I was brainwashed into thinking that this was how the faculty thought. At the December 1 Faculty Senate [meeting], clear, rational thinkers analyzed the issues on the merits."

Lester Hunt, a senator, tells me: "I was completely taken by surprise. It was a sea change of public opinion. But no one was more surprised than the pro-code people." The meeting put abolition back on the table, at one extreme, and many authors of the minority report now felt that their position was a compromise that could satisfy everyone. Few truly believed that full abolition was a possibility.

A Niggardly Display of Evidence

The next meeting of the Faculty Senate, also for purposes of discussion, was on February 1. The pro-code forces tried mightily to win the argument about the requirements of harassment law and to discover campus cases that would justify the code. They did neither. Speaking for the majority of the ad hoc committee, Carin Clauss, a law professor adamantly in favor of a strong code, took up much of the meeting explaining both proposals, urging the greater clarity of the majority report, and insisting that the university would be exposed to dreadful liability if it did not have a code.

On January 27, Charles Cohen, the pro-code historian, had written, "as a spokesman for the Majority," to the dean and associate dean of students, asking for information about possible relevant "debasing and derogating expression in the classroom." The deans took their best shot, but most of their examples further alarmed anyone who cared about free speech: "Professor showed slides and made comments that made female students uncomfortable"; "Complainant feels faculty makes light of homophobia during lecture"; "Complainant reports prevalent homophobia and heterosexism in a language class"; "Faculty allegedly made insulting reference to the student's country (other than the U.S.)." Presumably, an insulting reference to the United States would not have been actionable.

Minority group leaders also had been searching for two months for incidents to relate, but their offering blew up on them. Amelia Rideau, a junior English major and vice chairwoman of the Black Student Union, told the Faculty Senate at its February meeting how a professor teaching Chaucer had used the word *niggardly* (she was unaware of the related controversy, the week before, in Wash-

JEFF MILLER

ington, D.C.), and how he continued to use it even after she told him that she was offended. He was trying to explain its meaning—Chaucer used the term—but classmates, she complained, knew what it resembled. "I was in tears, shaking," she told the faculty. "It's not up to the rest of the class to decide whether my feelings are valid."

Rideau's plea was a reality check. If the proper use of a Chaucerian term while teaching *The Canterbury Tales* could be construed as harassment of a student who did not know the word's spelling or meaning, then the code was teaching some interesting expectations indeed. Many "abolitionists," as they now were called, believe that Rideau's speech, widely reported, was the turning point, setting the stage both for greater attendance at the March meeting and for the final vote. John Sharpless, a history professor, asked, "What other words are to be purged from our language? *Thespian*?"

On February 2, 1999, the *Wisconsin State Journal* editorialized, "Thank you, Amelia Rideau, for clarifying precisely why the UW-Madison does not need an academic speech code....Speech codes have a chilling effect on academic freedom and they reinforce defensiveness among students who ought to be more open to learning."

The Politics of Compromise

On the evening of February 1, Harvey Silverglate, who co-authored *The Shadow University* with me, addressed an eager audience on the Wisconsin campus, sponsored both by the student chapter of the ACLU and by the student Coalition for Conservative Leadership. He told them that a faculty speech code at a public university was "legally so absurd as barely to justify a debate" and that the selective enforcement characteristic of such policies undermines the essential doctrine of equality before the law. The vote between the majority and minority reports, he argued, was meaningless, because both positions were unconstitutional. There was only one option when it came to speech at the public University of Wisconsin: freedom.

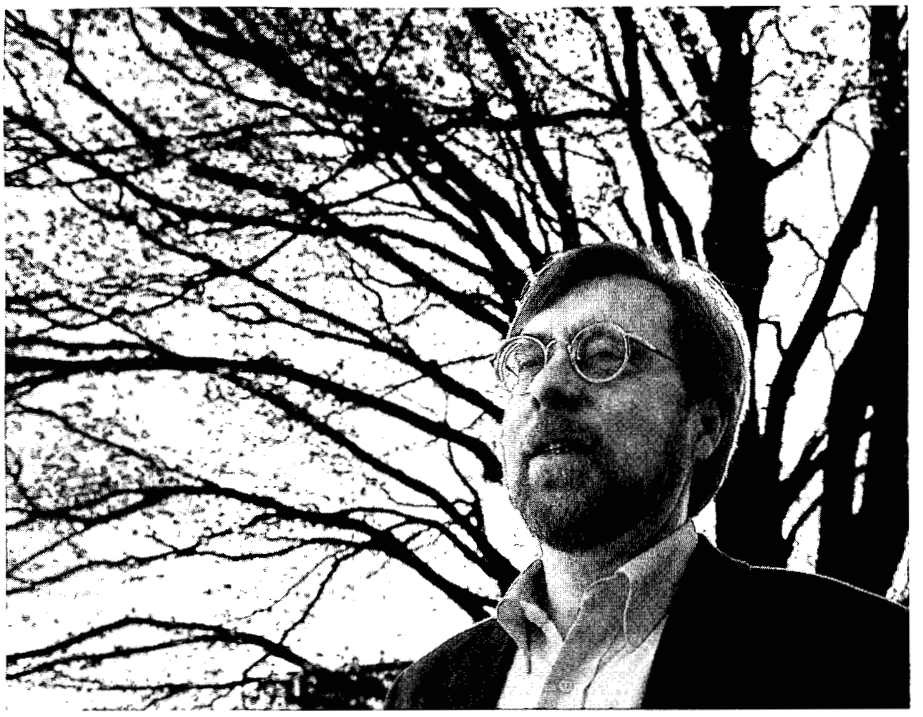
Hoping to salvage something, and desperate not to fall too far behind the faculty on this, the University Committee now reversed itself and proposed abolition to the Faculty Senate meeting that would occur on March 1. The anti-code minority of the faculty on the ad hoc committee, however, feared that they could not secure a victory without the support of their pro-code colleagues, and they almost lost sight of their actual goal. Working with the committee majority and with members of the University Committee, they labored to find compromise language that might command the overwhelming support of the Faculty Senate. Faculty politics can do such things to otherwise rational people.

Near victory, the anti-code faculty members on the ad hoc committee did not want to insult code co-author Ted Finman, and at a University Committee meeting a few days before March 1, Finman succeeded in getting two clauses added to what was supposed to be the abolition proposal. All expressive behavior by faculty members was permitted unless 1) it constituted illegal discrimination or 2) it was unprotected by the First Amendment and by academic freedom.

This, however, was a breach large enough to drive an entire engine of repression through, because in leftist "critical legal theory," any expression that "demeans" the powerless *is* illegal discrimination, and nothing that creates "a hostile environment" *is* protected by the First Amendment or by academic freedom. The seemingly sensible "compromise" in fact invited prosecutions that still would be decided on a case-by-case basis.

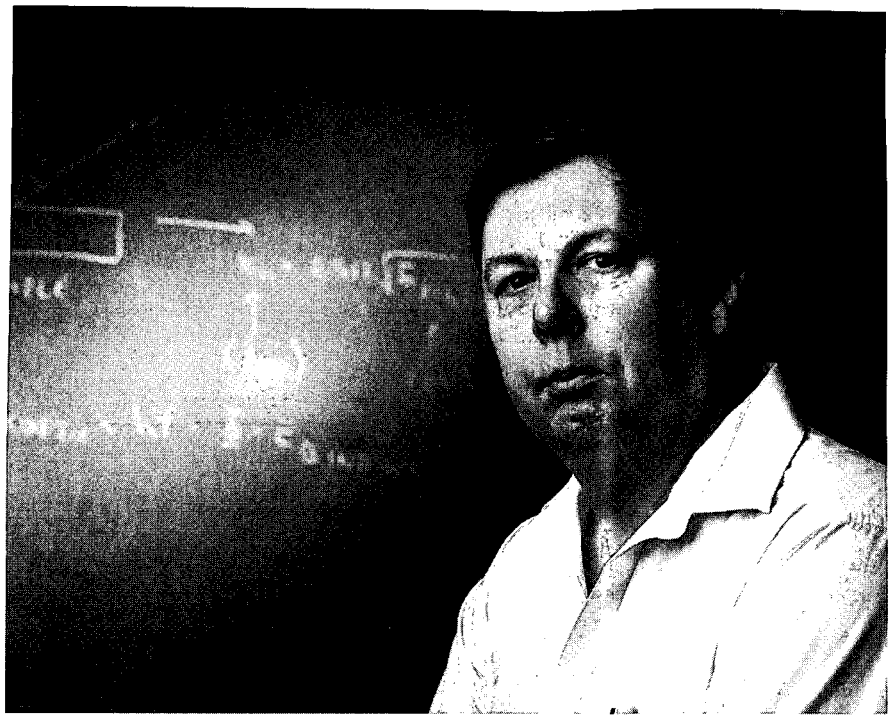
Free Science, Free Speech

By the time the Faculty Senate considered this motion on March 1, it was beset by ambiguous and confusing language and by a profusion of tortured amendments. Clause after clause was proposed to modify Finman's language, and no one quite could



ANDY MANIS

Encoded Messages: When the Faculty Senate unexpectedly spoke out against the speech code, opponent Lester Hunt (above) says, it created "a sea change of public opinion" toward abolition. Code co-author Ted Finman (left) unsuccessfully moved to add two clauses to the abolition proposal that would have salvaged the code.



Periodic Fable: Physics professor William Onellion proposed the final form of the abolition proposal. "I saw that I could get what I wanted by putting a period at the end of a sentence and deleting everything that followed it," he says, adding, "You can't get at truth without arguing wholly freely."

explain what anything meant. By everyone's account, the meeting was in chaos, until it was rescued by William Onellion, a professor of experimental physics whom almost no one knew.

Onellion proposed an amendment putting a period after the declaration abolishing the code and deleting everything after that—namely, Finman's two conditions. Someone asked who would make the decisions necessitated by Finman's language. A pro-code professor, Bernice Durant, probably secured the abolitionists' victory by answering "the Office of Equity and Diversity Resources," which many faculty associated with such things as an earlier failed campaign to demand sensitivity training of any faculty member with a federal research grant. Downs argued that the office was always sympathetic to a complainant. The Faculty Senate approved Onellion's abolitionist amendment by a vote of 71 to 60.

Onellion is amused to find himself a hero in his colleagues' eyes. "I'm not a very political person," he tells me. "I have better things to with my life expectancy than campus politics." An elected senator, he had decided to attend his very first meeting because he wanted to vote to abolish the speech code. After 75 minutes of parliamentary wrangling, however, "I was bored out of my mind."

In Onellion's view, there were only three choices: retention, revision, or abolition. At a certain moment, "I saw that I could get what I wanted by putting a period at the end of a sentence and deleting everything that followed it." When a proponent of the code described his amendment as "just another ploy by the abolitionists," it took Onellion "three minutes to realize what abolitionist meant" in this context. Raising a point of personal privilege, he said that since his family descended from pro-Union Louisianans, he had no trouble being called an abolitionist. "I can play the game of cheap rhetorical tricks also," he observes.

I ask Onellion why he got involved in this controversy. He replies that scientists, unlike colleagues in the social sciences and humanities, are not "preoccupied" with social and political issues. Professors of physics are probably some of the most liberal voters in the country, he continues, but where "issues of free speech and censorship are involved," they part company with the politically correct: "It's a question of both principle and practicality. You can't get at the truth without pushing people and arguing wholly freely."

Scientists, he says, have a frame of reference for all this: "We remember the fate of science in Nazi Germany and of Lysenko in the Soviet Union." He draws a moral that professors would do well to learn: "If government has the power over discussion, the search for truth ends." Onellion reminds us why it is so important for the scientists at our universities to join the struggle for liberty.

Will the opponents of free speech find ways to stop this revolt? Will the vice chancellor for legal and executive affairs, the chancellor, or the Board of Regents block the repeal on legal grounds? When the University of Wisconsin's Office of Affirmative Action declares the abolition of the speech code to be a violation of employment law, will the administration force the faculty to take their university to court? Stay tuned.

In the meantime, as student Amy Kasper says, the tide is changing. Keep your eyes and ears on the undergraduates, for from them may come the most auspicious changes of all. I ask Jason Shepard how he felt after the vote for abolition. He says, "We were a couple of students who truly changed the face of this university. To play a small role in defending free speech is humbling. You have to spend your lifetime chipping away at oppression and censorship."

Amen. At Wisconsin, they did more than chip away.

Alan Charles Kors (akors@mail.sas.upenn.edu), a professor of history at the University of Pennsylvania, is co-author, with Harvey A. Silverglate, of The Shadow University: The Betrayal of Liberty on America's Campuses *(www.shadowuniv.com) published by The Free Press.*

ANDY MANIS

The Reason Foundation

and

The National Tax Limitation Foundation

Invite you to join us for a very special celebration featuring

Lady Margaret Thatcher

As the Twentieth Century draws to a close, we celebrate a resounding victory of freedom and markets over the forces of government coercion and collectivism. The preeminence of ideas like privatization, tax reduction, choice, individual responsibility, and free markets give us good reason to celebrate. To commemorate this remarkable victory, we have asked the leading architect of this revolution to reflect on this unprecedented transformation and provide her thoughts on the significant challenges of the next millennium.

We will also honor President Ronald Reagan for the role he played in changing the course of the world in the last half of this century, and have asked Nancy Reagan* to speak on his behalf.

Wednesday, October 27, 1999

The Regal Biltmore Hotel
Los Angeles, California

Reception 6:00 p.m.
Black Tie Optional Dinner 7:00 p.m.

Table sponsorship

$10,000	Host table of ten: VIP reception for two, photo with Lady Thatcher, privilege seating.
$5,000	Host table of ten: VIP reception for two, photo with Lady Thatcher, priority seating.
$2,500	Host table of ten: VIP reception for two.
$1,000	Gold Individual ticket includes VIP reception, photo with Lady Thatcher, and dinner.
$500	Silver Individual ticket includes VIP reception and dinner.
$250	Individual celebration ticket includes reception and dinner.

Congratulatory ads and event sponsorship opportunities are also available.
For additional information, please contact Erica Mannard at the Reason Foundation at (310) 391-2245 or via email emannard@reason.org.

*invited

TODAY'S LE
2+2=4
2÷2=1
D-

Why Johnny Can't Fail

How the "floating standard" has destroyed public education

I confess. I am a grade-inflating teacher guilty of "social promotion." I have given passing grades to students who failed all of their tests, to students who refused to read their assignments, to students who were absent as often as not, to students who were not even functionally literate. I have turned a blind eye to cheating and outright plagiarism and have given A's and B's to students whose performance was at best mediocre. Like others of my ilk, I have sent students to higher grades, to higher education, and to the workplace unprepared for the demands that would be made of them.

I am, in short, a servant of the force that thwarts nearly every effort to reform American education. I am a servant of the floating standard.

It does not matter what changes we make in curricula. The floating standard shields the status quo and guarantees the reign of mediocrity. If standards are set high but students lack the skills or motivation to meet them, the standards will inevitably drop. If many students in a given class

HENRY PAYNE

By Jerry Jesness

take part-time jobs, homework will be reduced. If drugs sweep through a school, lower standards will compensate for the lack of mental clarity. Americans want quality education, but when lower grades and higher failure rates reach their own children's classes, they rebel and schools relent. Americans hate public education because standards are low but love their local schools because their children perform so well there.

Schools have their own reasons to play along. Flexible standards mean fewer complaints. When parents are happy, there are fewer lawsuits; when students are happy, there are fewer discipline problems. What's more, schools that fail students who have not met the stated standards have the expensive and unpopular obligation to retain them.

In the short term, floating standards make everybody a winner. Students build self-esteem, parents gain peace of mind, and schools save money. When the payback comes, time and distance keep the student and the school well separated. Teachers who are willing to drop standards, especially those who manage to do so while boasting of raising them, win the enthusiastic support of students, parents, and administrators, while those who genuinely attempt to challenge their charges are harassed, proselytized, or purged.

Teachers who are willing to drop standards win the enthusiastic support of students, parents, and administrators, while those who genuinely attempt to challenge their charges are harassed, proselytized, or purged.

The Initiation

I was introduced to the floating standard in 1979, while teaching for the Bureau of Indian Affairs on a reservation in western South Dakota. My predecessor had been forced to resign after failing nearly half his students. In his absence, the failing grades were changed and his students were promoted to the next grade. His former students and peers considered him a capable, if imprudent, instructor. It was because of him that my students were willing and able to read grade-appropriate novels, a rarity at BIA schools.

Even though I knew my predecessor's fate, I gave some failing grades for the first grading period. After a few warnings, however, I fell into line. There was no point in doing otherwise. The students already knew that failing grades would mysteriously change over the summer and that they would advance to the next grade. I opted for self-preservation.

A few years later I moved to Texas' lower Rio Grande Valley. Since I was now an experienced teacher and was reasonably fluent in Spanish, I felt that my position would be stronger than it had been at my former school. Besides, at my interview my future principal spoke movingly about the need to push our students to their limits. In the first grading period I boldly flunked a number of students, including the daughter of an administrator of a local elementary school and a star fullback who was also the nephew of a school board member.

Shortly thereafter I was called in to meet with my principal and the aggrieved parents. Such was my naiveté that I actually bothered to bring evidence. I showed the elementary administrator her daughter's plagiarized book report and the book from which it had been copied, and I showed the fullback's father homework bearing his son's name but written in another person's handwriting. The parents offered weak apologies but maintained that I had not treated their children fairly.

My principal suddenly discovered a number of problems with my teaching. For the next few weeks he was in my class almost daily. Every spitball, every chattering student, every bit of graffiti was noted. When there were discipline problems, my superiors sided with the offending students. Teaching became impossible.

So I learned to turn a blind eye to cheating and plagiarism and to give students, especially athletes, extra credit for everything from reading orally in class to remembering to bring their pencils. In this way, I gained the cooperation of my students and the respect and support of my superiors. I gritted my teeth, toughed out the year, and sought employment elsewhere.

It wasn't until after my fifth year of teaching that I finally gave up and accepted that my only choices were either to accept the floating standard or to abandon public education. That year my assignment was to teach beginning English as a Second Language (ESL I) and Plan III (low-group) language arts. My principal was particularly adamant about having all the students pass. After issuing the first round of grades, I found myself in his office more often than my worst-behaved students. He informed me that, since our school offered "ability grouping," there was no reason for any student to fail.

He recommended a few grading techniques to help me help my students pass. All ESL students were to receive passing grades. We could promote even those who failed to learn English to the next grade without promoting them out of ESL I. In language arts, no test was to be graded below "50," even one that was turned in blank. Daily assignments were to be graded accord-

ing to the number of questions answered, even if all of the answers were wrong. If eight of 10 questions were answered, the grade was to be "80," regardless of the quality of the answers. Those who still were failing at the end of the grading period were to be offered the opportunity to do reports or projects for extra credit. My neighbor, another low-group teacher who was held up to me as a mentor, boasted that he left the week's spelling words on the blackboard during spelling tests and recommended that I do the same.

I pulled in my horns too late to save myself that year. When I sent students to the office for discipline, the referral forms were placed in my file as evidence that I could not handle my classes. Failing grades were taken as proof that I was not motivating my students. Even chronic truants and habitual drug abusers would presumably have been passing had I been doing a better job of teaching. Besides, my neighbor had the same sort of students as I, and their grades were fine.

The principal recommended that my contract not be renewed. My dismissal hearing was a lonely affair attended only by my superintendent, my principal, a stenographer, and me. No champion of high educational standards descended from his ivory tower to speak on my behalf. I pointed out that those students who eschewed drugs and attended class regularly were doing well. Some of my ESL students had learned enough English that year to function in regular academic classes, and many of my language arts students were beginning to write coherent essays. I offered student compositions and tests as proof and suggested that we compare my students' standardized test scores with those of other students in the same track. My arguments fell on deaf ears.

That job and its $17,000 annual salary were hardly worth fighting for, so I left quietly. After a year as a salesperson and graduate student, however, I began to miss the classroom and decided to give teaching one more try. I returned to the district where I had given a failing grade to a star fullback. My superiors correctly assumed that I had learned my lesson and welcomed the return of the prodigal teacher. Just as Orwell's Winston Smith was finally able to win the victory over himself and love Big Brother, I was finally ready to embrace the floating standard.

In the ensuing seven years, only two of my students failed. My evaluations were "above expectations" twice and "clearly outstanding" five times. By my fifth year I had climbed to the top of the Texas teachers' career ladder and earned an annual bonus of $3,300.

I really did become a better teacher after my rebirth, if only because I had gained the cooperation of my students and superiors. My classes became much better behaved after I quit trying to force students to learn more than they cared to. My superiors became more supportive, and I actually met with cooperation, not hostility, when I sent students to the office. I tried to be as honest as possible with my charges. All of my students and any parents who bothered to visit my classroom or return my phone calls understood that grades above 80 honestly reflected performance, while those in the 70 range were fluffed up with extra credit. I explained to the parents of my immigrant students that here in the United States passing grades may be given for attendance and minimal effort and do not necessarily reflect mastery of the course material. Students who needed to be pushed lost out, but that was the price of harmony.

The Effective Schools movement of the early '90s gave the brief illusion that schools were ready for real change. In 1991 I was named head of the campus High Expectations Committee. We recommended that administrators stay out of the grading process and that teachers not be required to give evidence that failing students had been retaught and retested. We also suggested that students who complained that their grades were too low or that they were being unfairly retained should be required to prove that they had done the required work and mastered the required material.

Our recommendations disappeared over the summer. In their place was a plan to give high achievers pizza parties and letter jackets.

Why the Floating Standard?

Years ago there was a con game called the razzle-dazzle. Players threw marbles onto a numbered grid. The total corresponded to another number on a chart, where the winning numbers were very high or very low. Since there were many marbles, the odds of hitting such a total were infinitesimal. The operator could give the player the illusion that he was winning early in the game by miscounting in the player's favor. When it appeared that the player was close to winning the jackpot, the operator began counting the numbers as they really were.

Like the razzle-dazzle man, schools have fooled their clients by miscounting in what appears to be the clients' favor. By giving high grades and class credit to anyone willing to occupy space in a classroom, schools create the illusion that their players—their students—are winning. Only after leaving school and facing work or college do the students discover that they have lost.

Knowledge is power, but a diploma is just a piece of paper. Our schools have undersold the former and oversold the latter. Most employers would rather hire a 10th-grade dropout with a solid 10th-grade education than a high school graduate with only fifth-grade skills. Likewise, a dropout who later graduates from night school at age 21 will be better prepared for work and life than a student who graduates illiterate at 18. Many students and even parents fail to grasp this simple truth. For too many of them, a diploma is a sort of

philosopher's stone, an object that can magically guarantee one an annual income in excess of $25,000—an object that is, furthermore, an entitlement owed to anyone willing to serve sufficient time in school.

Such students do not see teachers as mentors who help them strengthen their knowledge and skills. They see them as obstacles.

It should come as no surprise that grade inflation and course content reduction have become the norm. Grades are educational quality control, and passing grades "prove" that teacher, student, and school are successful; therefore, the "best" teachers are those who give the highest grades, and the "best" administrators are those who can convince their teachers to do so. In this bizarre system, it is better to teach 10 vocabulary words than 100. If a teacher assigns 10 words and the student learns eight, the student scores 80 on the exam and both teacher and student are successful. If the teacher teaches 100 words and the student learns 50, both student and teacher have failed, even though the second student has learned more than six times as much as the first.

Teachers have an abundance of curricular guides provided by textbook publishers, district committees, and state agencies. Although teachers are required to follow these guides, they are also expected to teach students "where they are at," help them compensate for learning disabilities, modify lessons for various learning styles, reteach students who fail to master material in the allotted time, and so on. A teacher's worst nightmare is to be assigned a "regular" class in which most students' skills are several years below par.

Imagine that you are required to teach *Hamlet* to a group of students who are either unwilling or unable to read such a work. If you demand that your charges read and understand the play, most will fail and you will be blamed. If you drop *Hamlet* and convert the class into a remedial reading course, you will be out of compliance with the curriculum. If you complain that your students are not up to the mandated task, you will be labeled insensitive and uncaring.

Fear not: The floating standard will save you. If the students will not or cannot read the play, read it to them. If they will not sit still long enough to hear the whole play, consider an abridged or comic book version, or let them watch a movie. If they cannot pass a multiple-choice test, try true-or-false, or a fill-in-the-blank test that mirrors the previous day's study sheet. If they still have not passed, allow them to do an art project. They could make a model of the Globe Theater with popsicle sticks or draw a picture of a Danish prince, or Prince Charles, or even the artist formerly known as Prince. Those who lack artistic talent could make copies of Shakespearean sonnets with macaroni letters on construction paper. If all else fails, try group projects. That way you can give passing grades to all the students, even if only one in five produces anything.

Keep dropping the standard, and sooner or later everyone will hit it. If anyone asks, you taught *Hamlet* in a nonconventional way, one that took into account your students' individual differences and needs.

Fixing the Floating Standard

For three decades, dismayed Americans have watched their children's test scores slip relative to those of children in other industrialized nations. Our leaders have responded with hollow excuses. *Too many American children live in poverty,* they say. But so do many Koreans. *Many American children are raised in single-parent homes.* But so are many Swedes. *The United States is an ethnically diverse country.* But so is Singapore. The biggest lie is that we are the only nation in the world that seeks to educate children of all socioeconomic classes. That has not been true for decades.

The reality is simpler than that. Those other nations have fixed standards.

American schools offer fixed standards for their best and worst students, but not for the largest group, those in the middle. Advanced Placement tests are the same throughout the country. International Baccalaureate offers uniform curricula and standards to top-notch students in the United States and in English-language schools throughout the world. Like the Advanced Placement exams, SAT II exams test knowledge in certain subjects. A teacher who prepares students for these tests must teach the intended content of the course or face the embarrassment of having most of his students fail the final test. Likewise, students must learn the material or fail the test and forego course credit. No student, not even a star athlete, can negotiate a higher grade on an A.P. exam.

In my early teaching years, there were no fixed standards at the bottom. We had the Iowa Basic Test, the California Achievement Test, and the Comprehensive Test of Basic Skills, but the low-group classes did not take them very seriously. The *Zeitgeist* forgave disadvantaged students and those who taught them for poor scores.

That has changed in the past decade. Ever-increasing numbers of states have mandated that their students pass a basic skills test before graduating. In Texas, the euphemistically named Texas Assessment of Academic Skills (TAAS) is the standard. In order to prevent schools from ignoring any class of students, Texas wisely chose to monitor separately the test scores of all racial and economic groups. The state has demanded basic skills for all students, and the schools are delivering.

For those who seek to learn more than basics, however, the effect has been negative. Like other state-mandated minimum skills tests, the TAAS is helping to solve one problem while creating another: Basic skills are now so strongly stressed that academics suffer. Some conscientious English and reading teach-

ers complain that they have had to cut back on literature in order to cover TAAS skills. Teachers who once taught from novels now assign reams of single-page reading passages followed by multiple-choice questions. It should be obvious that a student who has read and analyzed the works of Charles Dickens or Mark Twain would be better able to determine the sequence of events or select the main idea of a paragraph than would a student who spent his academic year reading sample test passages. Unfortunately, not all educational leaders agree, so abundant skills practice, not serious study of literature, has become the norm in too many classes.

Here's how the system works at my school. Our fourth-graders have two 70-minute reading sessions daily. In one session, the children read short selections from books, but in the other they read sample TAAS passages; they are given the entire period to digest a one- or two-page passage and then answer the five to eight questions that follow. They are encouraged to read the passage, highlight key words, write a brief summary of each paragraph, read the answer choices, eliminate unreasonable answers, reread the answers, check for words in the answer choices that match words in the passages, answer the questions, reread, and recheck. One doubts that children taught to read in this excruciatingly slow manner are likely to become avid readers, but, then again, that's not the point of the class.

Similar problems exist in other disciplines. Some science and social studies teachers complain of being told to teach their lessons in the same format, with single-page passages followed by multiple-choice questions. Many Texas elementary math teachers complain that they are encouraged to take advantage of the TAAS' lack of a time limit by having children draw and count sticks rather than memorize math facts.

And the TAAS, of course, is not the only measure of student performance, although it has a monopoly on Texas educators' attention. My district's TAAS scores have risen steadily, but our SAT and ACT scores have remained abysmal. Across the state, SAT verbal scores are exactly the same as they were a decade ago. Our SAT math scores have risen a bit in that time, but are still in the bottom quintile. In some of the state's colleges, more incoming freshmen are put in remedial classes than not.

There's another problem with the notion of national standards. In a nation as large and diverse as ours, it's simply a mistake to require everyone to learn the exact same things. While there is a certain body of history that all Americans should know, it is reasonable for schools to dedicate time to state and local history as well. On literature we cannot agree at all. Perhaps it would be good for black students to have the opportunity to read Wright, Ellison, Hughes, and Hurston before reading Steinbeck and Dickens, as it might it be for students in New Mexico to read Anaya and Cather before Hemingway.

The French can agree that each of their graduates should be familiar with Proust and Molière. We Americans have no such consensus, so we either test basic skills or leave the choice of what to test up to the schools. The result is standards that are minimal, variable, or both.

The Voluntary Standard

Those who take Advanced Placement or International Baccalaureate tests submit to a voluntary outside standard. There is no reason that we cannot extend this option to other students as well. Textbook publishers, educators, and others could produce competing tests to be given at the end of certain courses. Schools could submit lists of works of literature read and historical eras studied to private testing companies and receive a test compiled from computer databases. These tests would free teachers from the pressure to adjust the content of their courses and would assure students and their parents that the standard for each course is fixed, not floating. If *Hamlet* is tested, then *Hamlet*, not popsicle-stick or macaroni art, will be taught.

Since the tests would be privately produced and their use voluntary, we would not see the public resistance that we have had to national exams. Universities could decide which testing services were most reliable. Admissions preference would likely be given to students who have scored well on reputable tests, allowing the market to choose the survivors.

Parents who trust their schools should be free to place their children in classes without standardized final tests. Those who want an assurance that the course's material is actually being taught should be offered the guarantee that such tests would provide. Those who prefer a fixed standard to a floating one should have that option.

Those who take Advanced Placement tests submit to a voluntary outside standard. There is no reason that we cannot extend this option to other students as well. Those who prefer a fixed standard to a floating one should have that option.

Jerry Jesness (jjesness@hiline.net) is a special education teacher in a south Texas elementary school.

Establishment Pause

Religious freedom meets anti-discrimination law

By Steve France

Ever since Southern restaurateur Lester Maddox brandished ax handles in the mid-1960s to make the case against laws that prohibit private discrimination, few have had the stomach to question the burden such measures place on individual liberty, much less argue that they impinge on constitutional rights.

Texas Gov. George W. Bush, the leading contender for the Republican presidential nomination, is one of the last politicians one would expect to take on such an issue. But the soothing would-be savior of moderate Republicanism, whose preferred role has been as Pepto-Bismol to the dyspeptic right wing, is serving up a "religious freedom" bill that may sanction the sort of discrimination Maddox liked to dish out.

Not that he set out to do so. The Bush-sponsored Texas Religious Freedom Restoration Act (RFRA) doubtless was chosen as a mom-and-apple-pie substitute for such indigestible religious dishes as abortion. It was patterned on a federal law that passed Congress almost unanimously in 1993, only to be struck down by the U.S. Supreme Court on federalism grounds in 1997. The modest aim of RFRA is merely to "restore" the traditional legal standard for protection of religious liberty that existed before *Employment Division v. Smith*, a 1990 case in which the Supreme Court concluded that the First Amendment does not require states to accommodate the ritual use of peyote.

But RFRA, similar to legislation that has been approved or is being considered in about 20 other states, would not merely create a religious exception to drug laws. It would establish a principle that could entitle religious landlords, employers, and service providers to ignore laws that bar discrimination against gays, lesbians, and other minorities if those laws conflict with religious doctrines.

This possibility has just begun to register at the political level in Austin, but both conservative and liberal legal experts see it as the clear message of a January decision by the U.S. Court of Appeals for the 9th Circuit. In *Thomas v. Anchorage Equal Rights Commission*, the court held that landlords may refuse on religious grounds to rent to unmarried couples, despite a state law protecting such couples from housing discrimination. The decision, which is binding in California and eight other states, applied the same test for religious liberty that the Bush bill mandates.

The curious thing is that Bush's RFRA is virtually identical to legislation that the Clinton administration and liberals such as Sen. Ted Kennedy (D-Mass.) have strongly supported for several years. The 9th Circuit's decision has exposed the flaw in a political fantasy embraced by Bush, Kennedy, the Clinton White House, Sen. Orrin Hatch (R-Utah), and even, until recently, the American Civil Liberties Union. These strange bedfellows thought they could shield religious freedom from state interference without sacrificing any of their other priorities.

CHIP BOK

The legal problem boils down to two large questions: First, must the government show a "compelling interest" before it can enforce laws that place a "burden" on the free exercise of religion? (Bush's bill says yes.) Second, what counts as a burden, and which interests are compelling?

The first question has been a hot one since *Smith*, the 1990 peyote case. The Supreme Court said the answer was no, partly because the second question was too vague and subjective for judges to settle. The case involved two Oregon members of the Native American Church who were fired from their jobs as drug counselors after their peyote use was discovered and who were subsequently denied unemployment benefits because of their "misconduct." Writing for the 5–4 majority, Justice Antonin Scalia said Oregon did not have to make an exception to its drug laws for religious use of peyote, no matter how ancient the practice. As long as a law does not single out a particular religion for unfavorable treatment, he said, it does not run afoul of the First Amendment's Free Exercise Clause.

Despite this precedent, the 9th Circuit in *Thomas* found an ingenious way to require a religious exemption from a generally applicable law. In *Smith*, Scalia said the Court had applied a compelling interest test in earlier re-

ligious liberty cases, such as a 1972 decision that exempted Amish children from compulsory school attendance, because those cases included other constitutional claims. He thus suggested that hybrid claims combining religious freedom with other constitutional interests could be powerful enough to require demonstration of a compelling government interest.

Until the 9th Circuit's decision, commentators had written off Scalia's statement as an attempt to finesse inconvenient precedents. But in *Thomas*, 9th Circuit Judge Diarmuid O'Scannlain held that the plaintiffs, Christian landlords in Alaska who sought to exclude unmarried couples from their buildings, had asserted other "colorable" claims along with the free exercise claim—namely, the free speech right to express a preference for married couples and a property right to select tenants. Taking Scalia at his word, O'Scannlain applied the compelling interest test. He concluded that the state of Alaska did not have a compelling interest in protecting unmarried couples from landlords who for religious reasons refuse to rent to them.

Even if the 9th Circuit's ruling is ultimately overturned, it demonstrates the potential impact of the test that Bush wants to establish by statute. The Texas bill is part of the backlash that followed the Supreme Court's ruling in *Smith*. Although the Native American Church successfully lobbied the Oregon legislature for an exemption from the peyote ban, the case provoked bipartisan cries of outrage and vows to protect religious freedom. In a typical statement in early 1993, shortly before Congress enacted its Religious Freedom Restoration Act, the ACLU accused the Supreme Court of rolling back two centuries of First Amendment tradition, "effectively reading the Free Exercise Clause out of the First Amendment." Like Bush's bill, the federal RFRA barred legal interference with religiously motivated conduct in the absence of a compelling government interest. The law passed on a voice vote in the House and by a vote of 98 to 1 in the Senate. President Clinton signed it later calling it "one of the proudest things I've been able to do as president."

The Supreme Court struck the federal RFRA down in 1997, finding that it exceeded Congress' power to regulate state and local government. The RFRA coalition

TYRANTS&TOOLS
BILL, ATOMIC SECRETS ARE NOT ENOUGH! YOU MUST FOIL THE RUNNING-DOG CAPITALISTS OF THE REPUBLICAN LIBERTY CAUCUS!
YES, O BENEVOLENT ONE! HMM...MAYBE HILLARY CAN CHECK THEIR FBI FILES!
REPUBLICAN LIBERTY CAUCUS
1-800-752-9646 www.rlc.org email:rlc@rlc.org
611 Pennsylvania Ave. SE #370 Washington, DC 20003

State Policy Network Seeks Executive Director

State Policy Network seeks an Executive Director to oversee the day-to-day implementation of the organization's mission. Founded in 1992, SPN fosters individual liberty and free enterprise by assisting in the development of independent state-based, policy research organizations throughout the United States.

Working with the President and Board of Directors, the Executive Director will participate in the relocation of SPN's headquarters and have direct responsibility for all aspects of management, fundraising, outreach and program development.

Qualified candidates must demonstrate competency, experience, and leadership in nonprofit management and finance, fundraising and development, public policy research methods and current issues, event planning, the market-oriented state think tank movement, the role of independent think tanks in society and the local, state and national public policy-making process.

Considerable travel anticipated. Salary commensurate with experience.

Contact:
Byron S. Lamm, President
State Policy Network, 814 Mill Lake Road,
Fort Wayne, IN 46845
(219) 637-7779 fax or e-mail to spnblamm@aol.com

then turned its attention to the passage of state legislation. By the end of 1998, five states, including Illinois and Florida, had their own RFRA laws. In addition to Texas, RFRA legislation has been introduced in more than a dozen other states.

In their eagerness to hop aboard the USS Religious Freedom, politicians have not been paying much attention to where it's headed. As the Supreme Court realized, once judges start scrutinizing every law that burdens religion, looking for a compelling interest to justify it, they are forced to compare apples to oranges, worldly ends to spiritual imperatives. Is a state's desire to forbid discrimination against certain groups compelling enough to outweigh an individual's sincere religious abhorrence of fornication, homosexuality, heretical faiths, or interracial marriage? How are courts to determine which religious beliefs or practices are genuine? Why recognize the use of peyote by Native Americans but not, say, the use of marijuana by Rastafarians? And might the policy of granting religious exemptions to people of certain faiths run afoul of the First Amendment's Establishment Clause?

Given the thorny questions raised by the movement to "restore" religious freedom, it's remarkable that the laws have not generated more controversy. Until the discrimination issue surfaced, the RFRA debate was lackluster. Though both sides trotted out horrible hypotheticals, supporters lacked actual examples of people whose religious rights had been trampled as a result of the peyote case, while opponents lacked actual examples of people who had used religious freedom to shield intolerable behavior. Whether the issue was a prisoner's right to wear Satanic jewelry or to drink communion wine, the enforcement of zoning rules against churches, child abuse in cult communes, or resistance to mandatory child immunization programs, there was a broad social consensus on the appropriate policy. The dispute seemed to be mainly about whether judges or legislators should decide how to accommodate religion.

The hottest controversy centered on the ability of prisoners to invoke the compelling interest test. Last fall, California passed a RFRA law similar to the Bush bill, but Gov. Pete Wilson vetoed it, citing the possibility that prison inmates would disrupt order and discipline by bringing a plethora of lawsuits.

In December, the Illinois legislature overrode Gov. Jim Edgar's attempt to force an exception for prisons. In the end, however, most people have decided that controls on frivolous lawsuits and universal recognition of the need for maximum discipline in prisons will take care of the concern voiced by Wilson and Edgar. Certainly that is the view of George W. Bush and his brother, Florida Gov. Jeb Bush, both of whom have tough-on-crime reputations yet support applying the compelling interest test across the board. It may be the only prison issue on which they agree with Ted Kennedy.

But on the question of discrimination, George W. Bush will have to part company either with Bill and Ted or with the religious right. Sooner or later, Bush and the other politicians will have to choose between two irreconcilable goals: accommodation of religious nonconformity and universal enforcement of anti-discrimination laws.

But on the question of discrimination, George W. Bush will have to part company either with Bill and Ted or with the religious right.

Unable to tolerate the intolerance of religious conservatives, the ACLU has recently jumped ship, abandoning what it once praised as a "simple and elegant" legislative restoration of traditional First Amendment doctrine. It now insists that laws like the Bush bill must guarantee that civil rights protection is always a compelling interest. The liberal group People for the American Way is still on board, but only by arguing that the courts on their own eventually will find that all forms of anti-discrimination law serve a compelling interest that trumps religious objections.

It has become clear that religious liberty counts for little with liberals when it conflicts with a core part of their agenda. Whether Al Gore, Hillary Clinton, and other liberal politicians follow the ACLU's example and simply abandon the administration's strong support for RFRA, or go the more politic route of People for the American Way, there is little doubt where they come down in this fight. But life will not be so easy for Bush, who can ill afford to offend the religious right. The seemingly uncontroversial centerpiece of his religion agenda may soon come to stand for the right to discriminate against gays, lesbians, and others.

Bush's top adviser on this issue, University of Texas at Austin law professor Douglas Laycock, agrees with the 9th Circuit that laws protecting unmarried couples from discrimination don't meet the compelling interest standard. "State and federal laws are shot through with distinctions based on marital status," he says, and this fact undercuts the idea that banning such discrimination is a compelling interest. Such laws, he says, simply try to "force a dissenting minority to accept the sexual revolution."

Of course, the same type of ambivalence can be seen in government policies on gay rights. As long as states bar homosexual marriages, it is hard to argue that the same states have a compelling interest in prohibiting landlords and employers from making similar distinctions. In litigation and legislative testimony, religious conservatives have made it clear that they believe employers and landlords with sincerely held religious beliefs have a right to discriminate against gay men and lesbians in employment and housing, regardless of laws to the contrary. Gender-, religion-, and race-based discrimination may still be uniformly forbidden, scholars say, but not without a fight.

It's not an argument Laycock or Bush likes to lead with, but it's one they will not escape. The only consolation for Bush may be that if Al Gore chides him for endorsing discrimination, he can chide Al Gore for hypocrisy in pretending to be a true supporter of religious liberty. ◆

Steve France (sfrance@bna.com) is a lawyer and journalist in Washington, D.C.

Shots in the Dark

Who should decide which vaccinations children receive?

By Sue A. Blevins

Lyla Rose Belkin was an alert and lively baby at five weeks old. Her parents, Michael and Lorna Belkin, say she had never been sick until she received a mandatory hepatitis B shot on September 16, 1998. "That night she became agitated and feisty," her father recalls. "Then she fell asleep and never woke up." Doctors told the Belkins that Lyla must have died from Sudden Infant Death Syndrome, a catchall diagnosis.

For weeks, Michael and Lorna agonized over what could have caused their daughter's death. They wondered if the hepatitis B vaccination might have had something to do with it. Most doctors scoffed at their question and assured them the vaccine was safe. That's when they began investigating their baby's risk of contracting hepatitis B.

After much research, Michael Belkin says: "It's ridiculous to give this vaccine to a newborn. How is a baby possibly going to get hepatitis B?" Unlike diseases that are transmitted via air and casual contact, hepatitis B is transmitted by direct contact with blood and other body fluids. Those at risk include intravenous drug users, sexually active individuals, blood transfusion recipients, health care workers, and babies born to infected mothers.

Why, then, are government officials making hepatitis B vaccination mandatory for attending day care? Why have 42 states added the vaccine to their lists of immunizations required for attending school?

Since public health officials have failed to reach the high-risk populations, they are making hepatitis B vaccination compulsory for all children, even infants who clearly are not at risk. What better time to force medical care on people than during their first weeks of life, when they are too young to refuse the shots or to complain about side effects? The director of the U.S. Centers for Disease Control and Prevention's Immunization Program has publicly acknowledged that "infants are considered the easiest to immunize."

But what makes sense to the CDC doesn't necessarily make sense to a parent. Michael Belkin, who studied statistics and econometrics at the University of California at Berkeley and consults for some of the largest financial institutions on Wall Street, understands risk-benefit analysis. "Vaccination can be a lifesaver if an epidemic is raging," he says, "but in this case the risk of vaccination outweighs the risk of infants getting the disease. I believe the mandatory policy for hepatitis B vaccination should be completely revoked."

He's not alone. Across the country, parents are discovering that a vaccine of dubious benefit and unknown risk is being foisted on their children without debate. With hundreds of new vaccines under development, the fate of the hepatitis B vaccine is being closely watched. If it is successfully mandated for children in all 50 states, a precedent will be set for other vaccines against diseases that are not highly contagious and that can easily be prevented by abstaining from high-risk behavior.

Vaccine Casualty: Five-week-old Lyla Rose Belkin died after receiving a mandatory hepatitis B shot. Since 1991, at least 274 newborns have died and 2,600 infants have suffered serious medical problems after getting the vaccine.

Vaccine side effects, by contrast, are unpredictable. In January, ABC's *20/20* aired a segment about adults and children who suffered debilitating symptoms after receiving the hepatitis B vaccine. ABC reported that since the federal government began urging routine hepatitis B shots for infants in 1991, at least 274 newborns had died after receiving the vaccination. An additional 2,600 infants had suffered serious medical problems.

It is well established that a small percentage of children will suffer adverse reactions or die from routine childhood vaccines. That's why the federal government established the National Vaccine Injury Compensation Program in 1986. By 1997, the program had awarded nearly $1 billion to more than 1,000 families whose children suffered catastrophic reactions to government-mandated vaccines. For deaths, the awards are capped at $250,000 per death, plus attorney's fees and costs.

The risks specific to hepatitis B vaccination remain uncertain. Before the vaccine was approved by the Food and Drug Administration, researchers tested it in

some 650 healthy infants and children up to 10 years old. After monitoring the subjects for five days following vaccination, the researchers concluded that "no serious adverse reactions attributable to the vaccine have been reported." But they conceded that, "as with any vaccine, there is the possibility that broad use...could reveal adverse reactions not observed in clinical trials." The insert in the vaccine package—which parents rarely see—lists a host of serious side effects that have been reported (in less than 1 percent of injections) since then, including arthritis, Guillain-Barre Syndrome, lupus, and multiple sclerosis.

Bonnie Dunbar, a cellular biologist at Baylor College of Medicine, began researching hepatitis B vaccine reactions after her brother developed autoimmune and neurological dysfunction following vaccination. She is investigating whether the vaccine tricks the immune systems of genetically susceptible people into attacking their own bodies. "I have worked in autoimmunity and vaccine development for over 20 years," she says. "After carrying out extensive literature research on this vaccine, it is apparent that the serious adverse side effects may be much more significant than generally known. Because it is not clear that adequate long-term follow-up information was collected in the clinical trial data, many of these effects might not have been observed."

Vaccine manufacturers and government officials deny that the hepatitis B vaccine causes debilitating diseases. They note that the vaccine has been administered safely to some 20 million children and adults nationwide. But patient advocacy groups are concerned that parents aren't being adequately informed about the possibility of severe reactions, however rare. "Without being provided with accurate and complete information about disease and vaccine risks," says Barbara Loe Fisher, president of the National Vaccine Information Center, "citizens cannot exercise informed consent, which becomes a human right when an individual considers undergoing a medical procedure that could cause injury or death." Fisher says that when parents whose children have suffered reactions challenge the public health authorities about vaccine safety, "they tell us we're only thinking of ourselves and our own children. They tell us we're selfish."

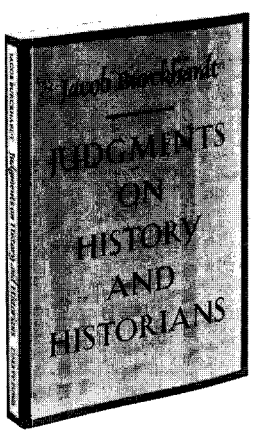
Since the late 19th century, public health officials have mandated vaccines to prevent the spread of highly contagious diseases, such as smallpox, measles, and diphtheria. In the 1905 case *Jacobson v. Massachusetts*, the U.S. Supreme Court confirmed the government's authority to require such vaccinations. Henning Jacobson challenged a 1902 Massachusetts law that required everyone to be vaccinated or revaccinated against smallpox in a community where the disease was known to exist. Having suffered a serious vaccine reaction as a child, Jacobson was worried about his safety and refused, arguing that his constitutional right to superseded the public interest.

Writing for the Court, Justice John Harlan observed: "There is, of course, a sphere within which the individual may assert the supremacy of his own will, and

Modern Editions of Classic Works for Readers Today

JUDGMENTS ON HISTORY AND HISTORIANS

By Jacob Burckhardt
Translated by Harry Zohn
Foreword by Alberto R. Coll



Renowned for his ***Civilization of the Renaissance in Italy*** and ***Reflections on History*** (published by Liberty Fund), Jacob Burckhardt (1818–1897) has well been described as "the most civilized historian of the nineteenth century." ***Judgments on History and Historians*** consists of records collected by Emil Dürr from Burckhardt's lecture notes for history courses at the University of Basel from 1865 to 1885. The 149 brief sections span five eras: Antiquity, the Middle Ages, History from 1450 to 1598, the History of the Seventeenth and Eighteenth Centuries, and the Age of Revolution. As Walter Goetz observed of the work a generation ago, "It is impossible to imagine a more profound introduction to world history and its driving forces."

Alberto R. Coll is a Professor of Strategy and Policy at the United States Naval War College, Newport, Rhode Island.

Hardcover	$17.00	0-86597-206-0
Paperback	$ 9.00	0-86597-207-9

(Indiana residents add 5% sales tax)

Call 800-955-8335
Fax 317-579-6060
or write:

Liberty Fund Inc.

We pay shipping on prepaid orders.

8335 Allison Pointe Trail, Suite #300, Dept. S15L, Indianapolis, IN 46250-1684
Explore Liberty Fund's catalogue on the World Wide Web at
www.libertyfund.org

rightfully dispute the authority of any human government, especially of any free government existing under a written constitution, to interfere with the exercise of that will. But it is equally true that in every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand."

That argument still holds true for mandatory vaccination against diseases that are easily transmitted and therefore represent a threat to the general public. But with diseases like hepatitis B or AIDS, which are difficult to catch, carriers do not pose a clear and present danger to others. The case for mandatory vaccination becomes even weaker when the people receiving the shots are not carriers and will not pick up the disease unless they engage in high-risk behavior.

In the U.S., 12 people have the power to determine which vaccines will be forced on millions of children.

Today, U.S. vaccine policy is set by a 12-member Advisory Committee on Immunization Practices (ACIP) appointed by the secretary of health and human services. Once ACIP recommends universal vaccination for a disease, state officials routinely add it to the list of mandatory immunizations. Many states don't even allow for public debate on the risks and benefits of new vaccines. Some bypass the legislative process altogether, giving public health officials the authority to enforce ACIP's recommendations. Thus, 12 people have the power to determine which vaccines will be forced on millions of American children.

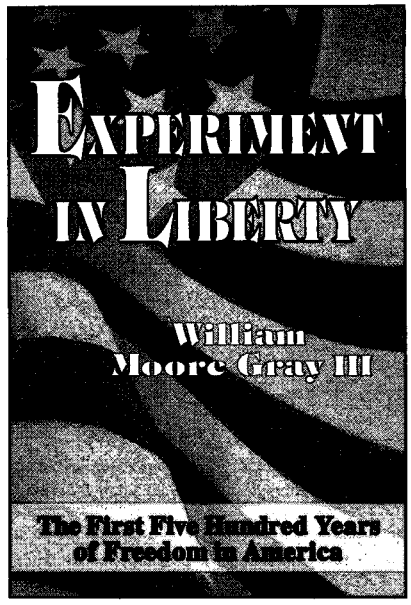
The lack of debate is especially troubling when you consider that more than 200 new vaccines are in the research pipeline, including vaccines for HIV, herpes, chlamydia—even cocaine addiction. In 1996 Peter Cohen, a researcher at the National Institute on Drug Abuse, presented a paper explaining that cocaine addiction could be viewed as an infectious disease. "A cocaine vaccine, currently under investigation by several laboratories, would be an innovative and exciting means of treating and preventing cocaine addiction," he wrote. "I propose to analogize cocaine addiction to an infectious disease which poses a major public health problem. This approach can provide an ethical and legal foundation on which we may begin to formulate a societal approach to the use of the cocaine vaccine." Given the emerging policy regarding hepatitis B, it is not hard to imagine public health officials arguing that all children should be vaccinated against cocaine addiction to protect the small minority who might one day have a problem with the drug.

People who rebel against this trend are increasingly looking for a way out. In all 50 states, children and adults with suppressed immune systems or other documented contraindications can obtain a medical exemption that allows them to enter day care, public school, or college without the usual vaccinations. All but two states (Mississippi and West Virginia) have a religious exemption, and 17 states have a philosophical exemption. The demand for "conscientious belief" exemptions is growing, with bills being considered in Texas, Illinois, and other states. But even when such exemptions are available, parents are rarely told that they can turn down vaccinations for their children without repercussions.

Some public health officials argue that parents who refuse to vaccinate their children should be held legally accountable for child neglect. The justification for mandatory vaccination, which used to be protecting the general public from disease carriers, has thus shifted to protecting children from parents who fail to take precautions recommended by the government's experts. But when it comes to guarding against diseases that children almost certainly will not get, parents should be allowed to weigh the risks and benefits. ◆

Sue A. Blevins (sblevins@forhealthfreedom.org) is president of the Institute for Health Freedom in Washington, D.C.

Since 1977
Sunflower University Press.



Liberty . . . the thread holding it all together is *economic freedom!*

Experiment in Liberty traces the development and threat to American liberties by overzealous government actions. — A "reader-friendly" socio-economic history . . . its unflinching pragmatism will anger some, its common-sense thinking — like "sensible shoes" — will gratify others.

. . . A challenging and provocative book, one which will arouse controversy of the best sort. . . .
— J. Rufus Fears, UOK Blankenship Chair in the History of Liberty

EXPERIMENT IN LIBERTY
The First 500 Years of Freedom in America
$24.95 *softcover* **$34.95** *hardback*
(+$3 S&H)

Sunflower University Press®
1531 Yuma • P.O. Box 1009
Manhattan, KS 66505-1009 USA
800-258-1232
www.sunflower-univ-press.org
Catalog on request.

Is Your Site Accessible?

Wheelchair ramps for the Information Superhighway

By Adam Clayton Powell III

Some day soon, you may open your morning newspaper and discover a few features are missing:

■ Sports scores will be mostly gone, with only the home teams' games and national championship results reported.

■ The color weather map will be replaced by a black-and-white version with 1950s-era isobar lines.

■ The stock tables will have been dropped in favor of lists of the five most active stocks traded, and perhaps the day's biggest winners and losers.

What will have happened? Under an order from the U.S. Department of Justice, your local newspaper will have been forced to drop those and other features because they are not accessible to people with disabilities.

So say goodbye to small type (too hard for some to read), thus ending comprehensive lists of sports statistics and securities trading. And of course that weather map has to go: It's not accessible to the color-blind.

Sound crazy? Does the Justice Department really have the power to review the design of newspapers? Well, maybe—though not yet the print versions. It may well be assuming the power to review any newspaper's online design.

Webmasters, Uncle Sam wants you to make your Web site more accessible to those who are blind, deaf, or otherwise disabled. And it's not a suggestion: It's the law. The new rules are mandated by a little-known provision of the Workforce Investment Act enacted by Congress last year. Under Section 508 of that law, the new rules will apply later this year to all Web sites operated by federal agencies, by anyone doing business with the federal government, and by many—perhaps all—state governments.

But those guidelines might also soon apply to everyone who puts up a Web site anywhere in the country. For now, the Section 508 rules will be voluntary guidelines. But members of the new federal Web site commission were quoted by the trade news service Ziff Davis in April as asserting that companies and individuals who do not adopt the rules "voluntarily" could soon face a legal mandate to comply—or be exposed to lawsuits filed by any disabled individual who could not read all of the information on a site.

Section 508 is one of those laws that sounds as controversial as apple pie: It simply requires that Web sites be adjusted so that disabled persons can read them. Web site designers will be required to restructure their content, design, and underlying technologies to allow individuals with disabilities "to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities." Who could object to helping the disabled?

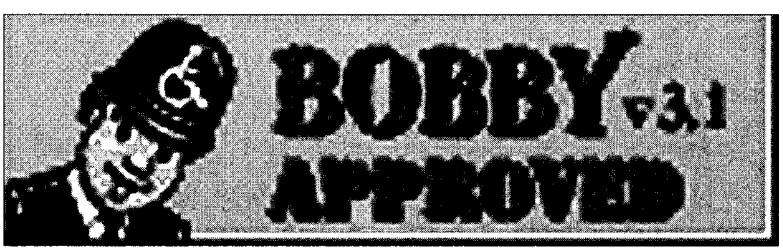
But the real question is: Just how should the Internet be "fixed" to be more accessible? The new federal Web site committee established by the U.S. Architectural and Transportation Barriers Compliance Board (the people who regulate wheelchair ramps and hallway widths) offered its answer in May, drafting new rules for online publishing. Provisions required that streaming audio or audio files be accompanied by simultaneous text, including, "where appropriate, in tactile form"; that streaming video be captioned; that the use of color to convey information be restricted; and that webmasters "provide at least one mode that does not require user vision" by formatting all information so that it is compatible with braille and speech synthesis devices.

Other regulations ban touch screens, prohibit moving text or animation (unless the user can go to a static display with the same information), and require all Web sites to "provide at least one mode that minimizes the cognitive, and memory ability required of the user."

Web site problems that need fixing were discussed in an attachment to a memorandum from Attorney General Janet Reno that explained the new law. "For example, a system that provides output only in audio format would not be accessible to people with hearing impairments," reads the explanation, "and a system that requires mouse actions to navigate would not be accessible to people who cannot use a mouse."

So say goodbye to streaming audio and video, unless you can provide simultaneous text translation. Say goodbye to graphical user interfaces, unless you can provide simultaneous keyboard commands—available in braille and audio.

Who is affected by the new rules? Advocates of last year's legislation say it applies only to federal Web sites. That may (or may not) have been what Congress intended, but that is clearly not what is being planned. For example, the U.S. Department of Education asserts that "states which receive Federal funds under the Technology Related



Cyber Cop: The seal of approval that your Web site complies with handicapped accessibility guidelines.

Assistance for Individuals with Disabilities Act of 1988, are required by that Act to comply with Section 508." Those words open the scope of the law to every state.

The people drafting the rules believe they should apply to everyone. Who are they? As is customary, the federal government asked interested individuals to nominate themselves to serve on the drafting committee. In this case, Section 508 required consultation with "public or nonprofit agencies or organizations, including organizations representing individuals with disabilities." Not surprisingly, most of those appointed were representatives of such groups as the American Council of the Blind, the American Foundation for the Blind, Easter Seals, the National Association of the Deaf, the National Federation of the Blind, and the United Cerebral Palsy Associations.

Members of the committee assert that the federal government has the power to regulate the form and content of online information—as opposed to print, where the government does not have such power—because the federal government paid for the development of the Internet. "The Internet is subject to market forces, but it didn't start through market forces, it was started by the federal government," said Jenifer Simpson, a committee member and manager of technology initiatives at the President's Committee on Employment of People With Disabilities, in an interview with Ziff Davis. Simpson added that the rights of the disabled must prevail over other considerations. "This is really a civil rights issue," she said.

And if online publishers decline to adopt the committee's new guidelines voluntarily, the guidelines could become mandatory under federal law for all Web sites, according to both Simpson and Judy Brewer, another committee member who is also director of the Web Access Initiative.

Janet Reno believes the new law covers more than just Web sites. "The scope of Section 508 is expansive," she wrote in the memorandum describing the law's jurisdiction, and "potentially includes all telecommunications devices (including telephones, voice-mail systems, pagers, facsimile machines, and related technology) and any technology used to convey, transmit, or receive any kind of information."

The new rules will become final early next year, but it is already possible to see how they would work. For those inside the government, Attorney General Reno announced the creation of a federal Web site (www.508.org) to help Webmasters ascertain whether they are in compliance with the new law. But this site was only accessible from government computers—specifically, according to the attorney general's memorandum, from .gov and .mil domains.

For everyone else, the Web Access Initiative developed and published its own set of proposed guidelines that could be adopted as federal law (www.w3.org/TR/WAI-WEBCONTENT). The first guideline

If online publishers decline to adopt committee's new guidelines voluntarily, the guidelines could become mandatory under federal law for all Web sites.

requires Web sites to supply text alternatives for all images and graphics. "Thus, a text equivalent for an image of an upward arrow that links to a table of contents could be 'Go to table of contents,'" the provision reads. A second provision bars the use of color to convey information unless explanatory text is also available, because "people who cannot differentiate between certain colors and users with devices that have non-color or non-visual displays will not receive the information."

Other requirements prohibit using multiple languages on the same page, because that can hinder translation by braille readers, and discourage the "use (or misuse)" of tables and other formatting that "makes it difficult for users with specialized software to understand the organization of the page or to navigate through it." Yet another provision requires webmasters to "ensure that moving, blinking, scrolling, or auto-updating objects or pages may be paused or stopped" and to design all pages so they are "usable by people without mice, with small screens, low resolution screens, black and white screens, no screens, with only voice and text output, etc."

Another Web site lets online publishers test their sites using some of the suggested guidelines that soon may have the force of federal law behind them. The Center for Applied Special Technology (www.cast.org) has posted free software it calls Bobby, illustrated with an image of a jovial waving policeman. That cheerful logo doubles as a seal of approval that can be downloaded and used by Web sites that meet Bobby's accessibility guidelines. Bobby has already flunked a number of widely used Web sites, including the White House site, where the software identified "13 accessibility problems that should be fixed in order to make this page accessible to people with disabilities."

Bobby may be waving with his right hand, but in his left hand, not visible in the logo, may be a billy club: Section 508.

Adam C. Powell III (apowell@alum.mit.edu) is vice president of technology and programs at The Freedom Forum, a nonpartisan international foundation dedicated to free press and free speech.

Improve Your
Spanish

Practice your Spanish reading world news, culture, business, science and more with ***Perspectiva*** or ***El Puente***. Easier to read than imported magazines – it's almost like having a private Spanish tutor.

Read Spanish with more comprehension and less frustration!

- **Spanish** at *YOUR* level – boosts comprehension
- **Glossary** next to articles – improves vocabulary
- **Spoken Idioms & Grammar** – increases fluency

Perspectiva — **Intermediate Spanish** — **$39**: 12 issues, 24 pgs ea

El Puente — **High-Beginning Spanish** — **$39**: 22 issues, 8 pgs ea

SUBSCRIBE TODAY, *or ask for your* ***FREE BROCHURE***
with sample articles and sample glossary.

EDUCATIONAL NEWS SERVICE
PO Box 60478–RES
Florence, MA 01062-0478
E-mail: info@ednews.com

(800) 600-4494

Lawyers, Gums, and Rummies

Why do we hate attorneys?

By Walter Olson

Few movie scenes of recent years have been bigger audience pleasers than the one in *Jurassic Park* where the dinosaur eats the lawyer. Audiences typically burst into laughter and cheers. Which raises the question: Do they react this way because Steven Spielberg has tainted their minds against this great profession, subtly planting the message that it's OK to laugh at attorneys? Or did Spielberg arrange his plot to get a lawyer munched like a cherry off the top of a sundae because he knew full well what would make audiences laugh and cheer? In other words, do lawyers have an image problem because Hollywood and the press keep picking on them, or do Hollywood and the press keep picking on lawyers because they know the public already has a low opinion of them?

The current unpopularity of lawyers has been the subject of much hand wringing and indignation on the part of the American Bar Association. In the ABA's view, the American public has been terribly misled about lawyers. If it only knew more about how they do their work, it would not be so upset. Its antipathy arises from false consciousness.

If the problem is bad public relations, then the solution must be better public relations. And so our bar establishment has labored mightily to come up with talking points about the good lawyers do. Among my personal favorites is the official slogan of the 1996 ABA national convention: "Freedom, Justice, Liberty—Without Lawyers They're Just Words." Or, to paraphrase slightly: Without lawyers, justice itself would be impossible. This slogan delights me because it calls to mind the slogan used by one of the big chemical manufacturers back in the 1970s, when terror about toxic substances was everywhere: "Without chemicals, life itself would be impossible." In a sense, of course, this point is very well taken: Without oxygen or water or salt we'd all be in big trouble. It's just that it may not seem very responsive to the grievance of someone who lives downstream from a factory dumping vinyl chloride.

You see similar arguments in the P.R. campaigns of other interest groups that find themselves unpopular at any given moment. "Without oil companies, driving itself would be impossible": equally true, and equally unsatisfying after a big tanker spill. Or try "without agribusiness, eating itself would be impossible" after an outbreak of food poisoning. The public is smart enough to recognize that whether there's going to be an oil industry is not really the issue. It wants to know: If you practice this line of work, how careful are you to avoid spills, and how willing are you to clean up when you do have one?

Lawyers have not always been this unpopular. Today's abuses are not wholly new, but they were formerly considered the unrespectable fringe of the profession.

There are, of course, more sophisticated theories as to why lawyers' popularity stands so low. The "dentist theory" is based on the observation that people encounter lawyers at unhappy, painful times in their lives. They've been indicted, or they're being audited, or they're involved in a lawsuit. These are among the most unpleasant things that happen to people, and so, the theory goes, they transfer their pain into anger against those who accompany them through these ordeals.

I am not impressed with the dentist theory, in part because surveys show dentists themselves are not all that unpopular. Most Americans are not especially critical of dentists, even if they wince at the memory of their last visit. One reason is that most dentists try hard to minimize the pain they inflict. People shop for dentistry for themselves and their loved ones, and dentists compete with each other in promising to keep the pain to a bare minimum. They boast of practicing "gentle" dentistry, "dentistry for cowards." I have yet to see a billboard advertising "gentle family lawyering," "painless lawyering," or "law for cowards." Maybe those would work as ads for mediation services. But when people buy "legal services," they are often buying something to be inflicted on their enemies, so services minimizing pain may not fit the bill.

This brings us to the somewhat more plausible "bartender theory," which begins with the observation that clients actively seek out many of the lawyers' worst attributes. The vindictive spouse looks for the carpet-bombing divorce lawyer; the dishonest business wants shady help in stiffing its creditors; the person nursing a dubious injury claim looks for the skilled exaggerator. Alan Dershowitz, when criticized for some of his stratagems in criminal defense—things like telling the client on first meeting, "Don't tell me whether you're guilty or not; it would tie my hands to know; leave me free to come up with the best defense"—has defended himself by saying, Look, if your kid were arrested and charged with something, you'd want a lawyer just like me.

As a predictive matter, surely Dershowitz is right. Up against the wall, many of us would call the lawyer whose ethical code allowed him to, um, retain a lot of options in vigorous representation. But as federal appeals court judge Laurence Silberman has observed, just because we play the horses doesn't mean we respect the bookies.

So there's something to the bartender analogy. Many of us do head for the mix-

ologist who hands out the stiffest drinks, rather than the drinks best for our own health or society's. (You may henceforth want to keep a new image in mind when you read about the leadership of "The Bar.") On the other hand, no one is forced to consume beverages foisted on them by their adversaries. It's worth keeping in mind, lest we be tempted to compare legal practice to a market, that most consumers of the product aren't taking it voluntarily. No wonder we see so many Mickey Finns.

Any alternative to the dentist and bartender theories of lawyer unpopularity must come to grips with three observations:

First, the more continuing contact people have with lawyers, the more vocal and fully formed a critique they tend to give of them. Doctors, accountants, and business people are among the groups most upset with lawyers. This suggests that unfamiliarity and ill-informed prejudice may not be the full answer.

Second, and contra both the dentist and bartender theories, lawyers have not always been this unpopular. If you consult American history, in fact, you find an interesting pattern: Today's abuses are not wholly new, but they were formerly considered to be more on the unrespectable fringe of the profession. Nineteenth-century America did generate some celebrated criminal cases in which demagogic lawyers won acquittals for obviously guilty malefactors. And there were abuses in civil law, including appeals to sympathetic local juries for unreasonably high damage awards, some management of litigation by lawyers for their own benefit, and hardball tactics of various sorts. Yet there was a feeling that the legal profession as a whole stood against such abuses of law. The public is not so sure of that any more.

Third, the legal profession continues to enjoy a high degree of public esteem in most other countries, though it goes without saying that the operations of law are painful abroad, and though the urge to sic a mean lawyer on one's opponent, like other aspects of human nature, is also not unique to America.

So what has happened in the last 20 or 30 years in the United States? Why is law, though a far more lucrative profession, one that people are less comfortable about wanting their children to enter? In my 1991 book *The Litigation Explosion*, I tried to give at least part of the answer by detailing some of the ways we've broken with principles that used to govern the legal system and profession:

We have enacted countless new laws, which control more of life and which are often vague, not clearly spelling out what conduct is wrongful and what the legal consequences of stepping over the line might be. We have expanded damage theories to the point where we are willing to mulct defendants of amounts that all previous American generations and the citizens of all foreign countries would consider fantastic.

We have liberalized procedure. As long ago as the 1930s we began to embrace the system of notice pleading, in which you can drag someone to court without saying what he may have done wrong. In the 1970s we drastically liberalized discovery, making it far easier to demand your opponent's filing cabinets. We liberalized forum shopping to make it easier to look around for a judge or jurisdiction hostile to your opponent or slanted toward your own ideological view. And we liberalized the admission of expert evidence to allow more testimony from hired experts outside the mainstream thinking of their discipline, thus giving lawyers more chances to keep weak cases alive.

Lawyers are so widely disliked in this country because they are so very widely, and correctly, feared for the power without responsibility they wield.

And so on. At the same time, we were throwing out the old legal ethics books in search of a new role for attorneys in society. Lawyers had traditionally been seen as quasi-deputized officers of the court, with whose unusual power to wield compulsory process came responsibilities to refrain from many steps that advanced the interests of their clients but not those of justice. Now we have swung toward the contrasting ideal of zealous representation, red in tooth and claw, to the point where many authorities, including some legal ethics professors, dismiss as outmoded lawyers' obligation to avoid misleading a judge or jury or inflicting tactical harm on an opponent's pocketbook or reputation.

We have drastically liberalized lawyers' rights to take a share in the claims they sue over, starting with the plaintiff's contingency fee but increasingly also through contingency arrangements in defense and transactional work. Rather than having them get along on boring old hourly fees, we now encourage them to get rich overnight if they obtain an unusually good result, and go hungry if they obtain an unusually bad one. By making the outcome one of feast or famine rather than more or some, we hyper-incentivize lawyers to do what it takes to win, though many of those things are far from attractive. And we've also drastically liberalized the scope for class actions, citizen suits, and other proceedings which encourage a lawyer to sue with no real clients.

Behind all these trends is a unified view of litigation as basically a good thing to be encouraged, since the more lawsuits go forward, the more justice we'll supposedly see done.

The result has been not simply to encourage destructive wrangling but also to ensure that lawyers have more power to ruin your life in America than they do in any other advanced country. In no other major democracy can a freebooting lawyer show up, dump a pile of papers on your front lawn, tie you up for years, inflict untold damage to your business and reputation, and then walk away with hardly any consequences if he is proven wrong. Lawyers, I submit, are so widely disliked in this country because they are so very widely, and correctly, feared for the power without responsibility they wield.

So here is a question for the bar associations: Is the current state of your profession misunderstood? Or understood too well?

Contributing Editor Walter Olson (wo@walterolson.com) is a senior fellow at the Manhattan Institute and author of The Litigation Explosion *(www.walterolson.com/litexpl.html). This column is adapted from a speech he delivered to the Federalist Society's National Lawyers Convention.*

A Gray World

By Brink Lindsey

False Dawn: The Delusions of Global Capitalism, by John Gray, New York: The New Press, 234 pages, $25.00

In *False Dawn*, John Gray attempts to attack global capitalism at its intellectual roots. In other words, he portrays the worldwide spread of markets as the manifestation of deeply flawed ideas about how the world works. The attack, a sloppy jumble of internal contradictions and factual distortions, fails spectacularly. Nevertheless, the book does achieve something: It articulates, quite boldly and with rhetorical verve, a relatively sophisticated version of reactionary globalphobia. It's not a pretty sight, but it merits our attention all the same.

Gray is a professor at the London School of Economics and a fairly prominent public intellectual in Britain. Like America's Pat Buchanan, Gray opposes globalization from the right; also like Buchanan, Gray is a repentant ex-free-trader. Gray's intellectual about-face, though, goes far beyond international economics. He is a former classical liberal whose earlier books include intelligent and admiring analyses of J.S. Mill and F.A. Hayek. Now he rejects not just free trade, not just liberalism, but the whole "Enlightenment project"—or at least his caricature thereof. (In *The Future and Its Enemies*, Virginia Postrel identifies Gray as a leading voice of what she calls "reactionary stasis.")

Indeed, at the bottom of Gray's hostility to the world economy is its supposed Enlightenment pedigree. "A single global market," he writes, "is the Enlightenment's project of a universal civilization in what is likely to be its final form." In an invidious and oft-repeated comparison, he portrays global capitalism and the now-defunct ideal of collectivism as two sides of the same rationalist coin: "Even though a global free market cannot be reconciled with any kind of planned economy, what these Utopias have in common is more fundamental than their differences. In their cult of reason and efficiency, their ignorance of history and their contempt for the ways of life they consign to poverty or extinction, they embody the same rationalist hubris and cultural imperialism that have marked the central traditions of Enlightenment thinking throughout its history."

Gray does not dispute (at least not consistently) that, unlike socialism, free markets deliver the goods. "The argument against unrestricted global freedom in trade and capital movements," he concedes, "is not primarily an economic one. It is, rather, that the economy should serve the needs of society, not society the imperatives of the market." In particular, Gray argues that free markets undermine the "needs of society" by fomenting incessant and unsettling change. "The permanent revolution of the free market denies any authority to the past," he writes. "It nullifies precedent, it snaps the threads of memory and scatters local knowledge. By privileging individual choice over any common good it tends to make relationships revocable and provisional."

John Gray rejects not just free trade, not just liberalism, but the whole "Enlightenment project"—or at least his caricature thereof. Indeed, at the bottom of his hostility to the world economy is its supposed Enlightenment pedigree.

At this point Gray sounds like a full-fledged neo-Luddite, rejecting the rat race of economic and technological progress in favor of some lost bucolic wonderland of cheerful, ruddy peasants and a wise and kindly nobility. But Gray's views are more complicated, and less coherent, than they first appear. Gray distinguishes between the "global free market," a utopian fantasy he harshly condemns, and globalization more generally, whose inevitability he recognizes and accepts.

"A global single market is very much a late-twentieth-century *political* project," he argues. "It is good to remind ourselves of this, and to make an important distinction. This political project is far more transient than the globalization of economic and cultural life that began in Europe in the early modern period from the fifteenth century onwards, and is set to advance for centuries. For humankind at the close of the modern period globalization is an historical fate. Its basic mechanism is the swift and inexorable spawning of new technologies throughout the world. That technology-driven modernization of the world's economic life will go ahead regardless of the fate of a worldwide free market."

It appears, then, that John Gray is highly selective in his railings against the "Enlightenment project." The "universal civilization" of science and technology, after all, has its own "cult of reason and efficiency," heaps "contempt" on traditional superstitions and folkways, and spreads its own "cultural imperialism." Even more so than do free markets, the "permanent revolution" of scientific and technological advance "denies any authority to the past," "nullifies precedent," and "snaps the threads of memory." Yet while free markets are dismissed as a dangerous pipe dream, technological progress is a "historical fate."

The muddle gets deeper. Gray explicitly acknowledges that free markets and

And, finally, I leave to the Internal Revenue Service, 37% of my estate.

You worked hard to build your wealth. Shouldn't you be able to use it to support the people and organizations *you* care most about? Federal tax rates for estates in excess of $650,000 start at 37% and go as high as 55%. Should the product of your labors go to the government or should it go to your family and, after they are taken care of, to an organization that promotes your values? What is your will?

The Reason Foundation, the non-profit publisher of *Reason*, is engaged in a long-term effort to promote individual liberty, personal responsibility, and free-market principles. You can help us communicate these values by contributing a portion of your estate through a bequest, life insurance policy, charitable trust, or other deferred gift. You can also use planned giving techniques to make current gifts from assets you won't need during your lifetime but may want to pass on as part of your estate.

For more information on keeping more of your money out of government hands and making a lasting gift in support of "free minds and free markets," please request an information package from Donald Heath, director of supporter relations, at (310) 391-2245 or dheath@reason.org. All inquiries will be treated in confidence.

What is your Will?

Trade Marks: "The dislocations of social and economic life today are not caused solely by free markets....Technological innovations made in advanced western countries are soon copied everywhere," argues Gray. (Pictured: Taiwanese securities brokers.)

technological developments are pushing the world in the same direction. In fact, he actually argues that technology's push is the ultimately stronger and decisive one, writing, "The dislocations of social and economic life today are not caused solely by free markets. Ultimately they arise from the banalization of technology. Technological innovations made in advanced western countries are soon copied everywhere. Even without free-market policies the managed economies of the post-war period could not have survived—technological advance would have made them unsustainable."

Here, then, is Gray's argument so far: The current worldwide displacement of state control by markets is driven by the same kind of Enlightenment-inspired rationalist monomania that gave us the Soviet Union. This ideological campaign should be condemned. Yet this condemnation should not extend to the worldwide displacement of state control by markets that is driven by another bit of Enlightenment-inspired rationalism—namely, the global triumph of Western science and technology. And by the way, this latter technology-driven phenomenon is much more potent than the former ideology-driven one, and indeed is so powerful that statism would be giving way to markets even if free market ideology did not exist.

Got that?

It's the incredible shrinking thesis. It poses as a radical, Enlightenment-bashing jeremiad—but it's just a pose. Gray shrinks from the full implications of his argument, and then proceeds to cut the legs out from under it with understated but devastating qualifications. In the end, there's not much left.

This kind of self-contradiction occurs again and again in Gray's book. For example, Gray blasts the Thatcherite deregulation of the British labor market, attributing to it the following baleful consequences (among others): "The bourgeois institution of the career or vocation ceased to be a viable option for an increasing number of workers. Many low-skill workers earned less than the minimum needed to support a family. The diseases of poverty—TB, rickets, and others—returned."

Yet then Gray turns around and admits: "Margaret Thatcher understood that British corporatism—the triangular coordination of economic policy by government, employers, and trade unions—had become an engine of industrial conflict and strife over the distribution of the national income rather than an instrument of wealth creation or a guarantor of social cohesion."

Likewise, Gray condemns New Zealand's neoliberal reforms for undermining "social cohesion," but then concedes, "By the early 1980s a major shift in policy may have been unavoidable. It was not unreasonable to fear that New Zealand might slip from its status as a First World economy." For both Britain and New Zealand, Gray simultaneously trashes liberalization *and* the mess that preceded it. What should have been done? On that crucial point Gray is silent.

Meanwhile, Gray argues, in familiar globalphobic fashion, that the world economy today follows a kind of "Gresham's Law," in which "bad" capitalism drives out "good." "Sovereign states are waging a war of competitive deregulation, forced on them by the global free market," he writes. "A mechanism of downwards harmonization is already in operation." With equal vigor, though, Gray argues the exact opposite: "A global free market presupposes that economic modernization means the same thing everywhere....The real history of our time is nearer the opposite. Economic modernization does not replicate the American free market system throughout the world. It works against the free market. It spawns indigenous types of capitalism that owe little to any western model."

To cite a final example, consider Gray's analysis of East Asian capitalism. It is clear that he regards it as far superior to the American alternative, asserting, "In the contest between the American free market and the guided capitalisms of East Asia it is the free market that belongs to the past." Oops—no doubt this passage was written before the full dimensions of the Asian economic collapse had become apparent (the book was originally published in Britain in the spring of 1998). But Gray doesn't wait for events to refute him; he blithely refutes himself.

© PHOTODISC

Thus, when he considers Asia's leading economy, Japan, he admits that it has been a "no-growth economy" for the better part of a decade. Indeed, he even tries to make a virtue of the fact by saying, "Perhaps in Japan's uniquely mature industrial society the collapse of economic growth could be an opportunity to reconsider the desirability of restarting it." Gray can't make up his mind whether Asia is outgrowing or outstagnating us.

Is there anything solid in all this murk? Well, yes—Gray is consistently unambiguous in his cartoonish, over-the-top anti-Americanism. Through all his zigs and zags, he is steadfast in his loathing of American-style capitalism as it has emerged during the past couple of decades.

Gray argues that in the United States during the 1980s and '90s, "market utopianism" has displaced "Rooseveltian liberalism" and "gone far towards establishing itself as the unofficial American civil religion." Hyperbole aside, Gray is correct that American capitalism has undergone a fundamental shift in recent years. What is today called the "American model"—i.e., the absence of price and entry regulation, flexible labor markets, return-driven (as opposed to relationship-based) allocation of capital—is indeed a relatively recent phenomenon. In Gray's eyes, its advent is a catastrophe of the first order.

Predictably, he repeats the usual canards about rising economic inequality. Here is my favorite line from the book on that score: "The middle classes [in the United States] are rediscovering the condition of assetless economic insecurity that afflicted the nineteenth-century proletariat." That Gray could make such a statement—when an all-time record 66 percent of American families own their own homes, and an all-time record 52 percent of Americans own stocks—is a telling indicator of his regard for the facts.

For Gray, though, the supposed economic failings of American-style capitalism are only the beginning. "In the United States," he warns, "free markets have contributed to social breakdown on a scale unknown in any other developed country. Families are weaker in America than in any other country. At the same time, social order has been propped up by a policy of

A Notice To Our Subscribers

From time to time, our subscriber list is rented to others. We carefully screen those to whom we rent our list and try only to rent to those whose offers we believe may interest our subscribers. If you do not wish to have your name included on our rental list, simply let us know by writing us at:

Reason
3415 S. Sepulveda Blvd., Suite 400
Los Angeles, CA 90034
Attn: List Rentals

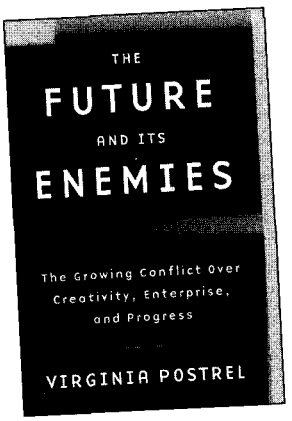
Violence In Public Schools
THE CASE FOR PRIVATIZATION

An exclusive interview with Dr. Michael J. Hurd in the wake of the Colorado Murders

read it online at:
www.drhurd.com
(Click: Essays, Books & Articles)
or call 301-654-3939 for a free copy

THE LIVING RESOURCES NEWSLETTER

"Brilliant"
—James K. Glassman, *The Washington Post*



If you like *Reason*, you'll love this book!

Virginia Postrel takes on the enemies of freedom and progress and launches a new national debate about how to face the new millennium.

"A **pointed and provocative** cultural critique." —*The Wall Street Journal*

"**Vibrant with genuinely remarkable new ideas**...a scintillating manifesto that will inspire and invigorate those ready to hear its message, even as it infuriates those who aren't. Simultaneously clearheaded and effervescent, Postrel's prose is **delightful to read.**" —*Salon*

"Virginia Postrel is **stirring it up**...arousing praise and criticism across the country." —*The Baltimore Sun*

"Exciting...**a very important book**, and I have wolfed it down." —Colin Walters, *The Washington Times*

"Virginia Postrel [is] **one of America's true original thinkers.**" —*Hartford Courant*

"Postrel's arguments have **special relevance in dynamic Silicon Valley**, a garden of capitalist creativity and creative destruction." —Joanne Jacobs, *San Jose Mercury News*

"Read this **superb book.**" —*The Detroit News*

At bookstores everywhere, or order your copy now through www.futureand.com or 1-800-CEO-READ (1-800-236-7323).

mass incarceration....Free markets, the desolation of families and communities and the use of the sanctions of criminal law as a last recourse against social collapse go in tandem."

Let us stipulate that broken homes and bulging prisons are serious social pathologies. But to blame these ills on the economic deregulation of the past 20 years is nothing short of ludicrous. After all, divorce, illegitimacy, and crime rates began soaring in the 1960s, when "Rooseveltian liberalism" was still in full flower.

As an alternative to the "global free market," Gray upholds Isaiah Berlin's vision of "a world which is a reasonably peaceful coat of many colours, each portion of which develops its own distinct cultural identity and is tolerant of others." But it is the proponents of economic liberalization, not Gray and his reactionary confreres, who are the true partisans of Berlin's pluralist and tolerant vision. For at the core of Gray's snarling rejection of free markets is intolerance—intolerance of the millions upon millions of individual choices that make up the marketplace.

John Gray disapproves of free markets on the ground that they give short shrift to "social cohesion." Yes, stability and belonging and tradition are certainly "vital human needs." But so are freedom, experimentation, and creativity. Gray regards these as dangerous and supports coercive policies that would suppress them. Supporters of liberalization, on the other hand, celebrate the dynamic virtues, while recognizing that they entail tradeoffs. In the liberal system, these tradeoffs are made by individuals according to their own individual and subjective preferences. Which approach is more likely to produce a vibrant "coat of many colours," and which a dull gray jacket of stagnation and repression? ◆

Contributing Editor Brink Lindsey (blindsey@cato.org) is director of the Cato Institute's Center for Trade Policy Studies.

Gender Truce

By Norah Vincent

Ceasefire! Why Women and Men Must Join Forces to Achieve True Equality, by Cathy Young, New York: The Free Press, 368 pages, $25.00

Reality is inconvenient. Especially for that much vaunted and much maligned whirligig, the Western mind, which, we all agree, tends to think too much. We, the plodding possessors of such minds, are determined to organize our world and make sense of it. Even the declared nonrationalists among us (though they'd rather die than admit it) are living by the rules of reason: still counting their chickens, still putting too many of their eggs in that one basket, and, like everybody else, still mulling over which came first. But to make sense of something complex is always to oversimplify it, curtail it, misrepresent it. Invariably, there are stubborn loose ends in experience that never quite fit the patterns we've devised for them. So, for the sake of clarity or logical consistency, we just snip them off or tuck them away somewhere.

Not surprisingly, intellectuals are always doing this; and of course they're the very people who should know better. But they don't. So we end up with shelves and shelves of briefs and dissertations, polemics and apologia, all of them designed to convince us that the answer to A, B, or C must be X, Y, or Z—and all of them wrong. Kant explained why a long time ago: Reason is just too crude, too curtly organized, to reflect the world as it really is. And yet how could it be otherwise? Like Churchill's democracy, rationality is the worst kind of thinking we have, except for all the others.

Which brings us to Cathy Young. Though it may seem so at first, her new book, *Ceasefire!*, is not ultimately about sexual equality. It's more about this messy thing called reality, and how in sexual politics—as in race politics, gay politics, and all manner of other special interest politics in America—we've lost sight of it. Young's explanation for this harks back to Kant: Our diagnoses of the race problem, the woman question, and the gay agenda are too simplistic. Our arguments on both sides, left and right, are mired in the same unhelpful mentality: Us vs. Them. As Young writes in the early pages of *Ceasefire!*, "Life confounds all dogmas, whether of sameness or difference."

Since the publication of Susan Faludi's *Backlash* in 1991, we've seen a rash of vehement books about the collective female in society, many of them written by young newcomers, or "third wave feminists," as they've since been dubbed. The rough (and by no means all-inclusive) chronology goes like this: The same year Faludi published *Backlash*, Naomi Wolf made her debut with *The Beauty Myth: How Images of Beauty Are Used Against Women*. In 1993, a young graduate student named Katie Roiphe came on the scene with her indictment of hysterical attitudes about date rape, *The Morning After: Sex, Fear, and Feminism on Campus*.

A more recent string of books about women included lesser follow-ups by Wolf (*Promiscuities*, 1997), Roiphe (*Last Night in Paradise*, 1997), and the bad girl of *Prozac Nation* (1994) fame, Elizabeth Wurtzel (*Bitch*, 1998). What seemed to link these books was a newfound sexual confidence and an irreverence toward the physical fears and constraints of girlhood. These were young women to be reckoned with, femmes who'd found their boots; and propriety be damned, they were going to walk all over us to prove it. You might say they (especially Wurtzel) were bookish versions of Veruka Salt, the pubescent brat in *Willy Wonka and the Chocolate Factory* who, upon seeing the geese who laid the golden eggs, sang with petulant abandon the refrain, "I want it now."

Lately, just when we've all been getting bored with black bra feminism, the good girls have begun striking back with a third wave of their own. Wendy Shalit has come charging out of the gate with her prescription to let girls be girls and make boys be gentlemen: *A Return to Modesty: Rediscovering the Lost Virtue* (Free Press, 1999). Meanwhile, former *Women's Quarterly* Editor Danielle Crittenden offers a new-

fangled take on customary sex roles in *What Our Mothers Didn't Tell Us: Why Happiness Eludes the Modern Woman* (Simon & Schuster, 1999). Her prescription: Marry young, have kids, then go back to work in your 30s; otherwise, you'll turn into the Wicked Witch of the West and die woefully unhappy, with only a brood of monkeys to your name. Cathy Young's *Ceasefire!* completes the triad of this year's dissenting woman books, though to link her ideologically with Shalit and Crittenden or the mainstream right would be a mistake.

Even Shalit and Crittenden cannot be lumped together so haphazardly. They both make cogent use of women's magazines (*Mademoiselle, Glamour, Vogue, Redbook, Cosmopolitan*) as cultural indicators of widespread female unhappiness, and both are avowed traditionalists, but their prescriptions for how to redress women's woes are quite different. Shalit wants us to listen when women say they're unhappy, rather than dismissing them as whining feminists, while Crittenden wants feminism to wake up and see that it has dug its own grave, becoming a cause of female unhappiness.

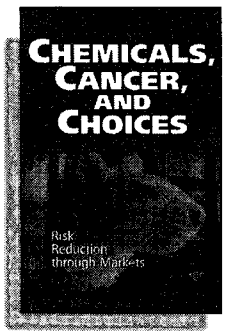
The proof that Young may be right —i.e., that extremist feminism is both prevalent and warped—lies in the fact that she has to work so hard to convince us that men and women are, in fact, both human, both capable of wrong, both capable of right.

Cathy Young is just as preoccupied as Shalit and Crittenden with the real lives of average women. But she finds the bulk of her evidence in court cases, professional surveys, and research projects. You might say that *Ceasefire!* is the rational mind's rebuttal of Faludi's *Backlash.* Like Faludi, Young pelts us with statistics and anecdotes that bolster her claims about the current state of the gender wars, her basic claim being that there is indeed a gender

"A GRACEFULLY WRITTEN PRIMER ON HOW MARKETS CAN BE HARNESSED TO MANAGE THE RISKS OF CHEMICALS."

—Prof. John Graham, Harvard Center for Risk Analysis

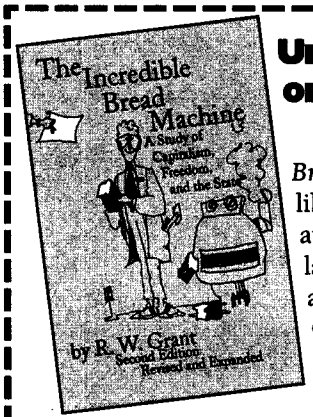
One of the most important policy questions we face concerns the health effects of environmental chemicals on humans. Peter VanDoren debunks the conventional wisdom that animal studies provide a reliable guide for measuring the effects of chemical exposure on humans. He argues that acceptable exposures to various chemicals, such as radon and pesticides in foods, can and should be determined by the individual consumer rather than by government regulation. Even exposure to air pollution, for example, could be governed by markets and common law.



Chemicals, Cancer, and Choices
by Peter VanDoren
Available at fine bookstores.
122 pp./$16.95 cloth
$8.95 paperback

CATO INSTITUTE
1000 Massachusetts Ave., N.W.
Washington, D.C. 20001
www.cato.org

Call toll-free to order: 1-800-767-1241 (12-9 pm EST, M-F)


The Incredible Bread Machine
A Study of Capitalism, Freedom, and the State
by R. W. Grant
Second Edition, Revised and Expanded

Underground super-seller on economic liberty

Richard Grant's *The Incredible Bread Machine* became legendary in libertarian circles three decades ago, an underground classic about how laws backfire and how free people achieve extraordinary things. Now Grant has updated & expanded his work in some wonderful ways.

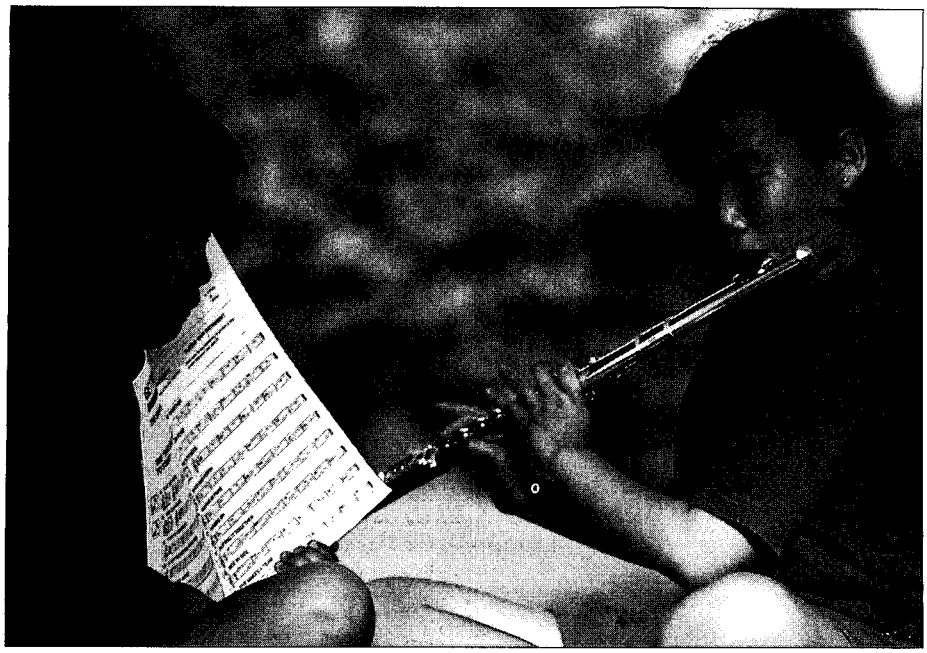
Reason's Robert Poole says, "This is one of the all-time classics of liberty. How wonderful to see it back in print. The new, revised edition is even better than the original."

THE INCREDIBLE BREAD MACHINE
(2nd Edition)
by R.W. Grant
LI7939 (paperback) 297p. $14.95* postpaid
LI7938 (autographed hardcover) $24.95* postpaid
**California residents add sales tax*

Call for a FREE CATALOG

Order toll-free: 1-800-326-0996, Dept. IBM2

LAISSEZ FAIRE BOOKS
938 Howard Street, #202 • San Francisco, CA 94103
World's largest selection of books on liberty
We ship within 24 hrs. • Satisfaction guaranteed or your money back
Or order through our website— http://laissezfaire.org



Gender Mender: *Ceasefire!* argues convincingly against a number of stereotypes—including that girls are naturally more cooperative than boys —in making its case for "true equality."

war but, contra Faludi, men aren't really winning it.

For every (often false or exaggerated) feminist statistic about unnecessary hysterectomies, domestic abuse on Superbowl Sundays, and gender bias in schools, Young offers a barrage of counter-statistics and contrary examples. Though this doesn't make for facile or speedy reading, it gives Young's assertions a much needed solidity. There are no straw men here. Young's seemingly exhaustive research and the sensible arguments she builds on it are both necessary and impressive. Her tireless rigor is almost enough to make you think reason can be reasonable after all.

Young is, in essence, a humanist, which, in sexual politics at least, is the only sensible thing to be. If you scrape away all of Young's evidential frosting, you find that her book is telling us something that should be obvious: We're human. And being human (for both men and women) is an almost infinitely complicated state of affairs that cannot be reduced to so crude a model as beauties and beasts. The prevailing feminist paradigm, argues Young, makes men into pillaging Huns and women into forbearing nuns, and it's getting us nowhere, not to mention invalidating the founding principle of feminism itself.

After all, the women's movement, like the civil rights movement and every other call for social justice, won its earliest victories on a humanist platform, by appealing to the American sense of equity: We deserve the vote and equal treatment because we, too, are human beings. Now the pendulum has swung too far in the opposite direction, the voguish assumption being that women are more than human, and men less. Feminism, in Young's estimation, has become little more than a cheerleading squad for women (right or wrong), having thrown equality and fairness to the winds of the gender war.

The proof that Young may be right—i.e., that extremist feminism is both prevalent and warped—lies in the fact that she has to work so hard to convince us that men and women are, in fact, both human, both capable of wrong, both capable of right. You'd think this point would be uncontroversial. Yet Young takes nearly 400 pages to make her case, anticipating the copious objections she knows will greet her. Even so, few people's minds are likely to change under Young's influence, though by all rights they should.

Young is very thorough. She broadsides the prevailing wisdom on domestic abuse (citing a 1975 National Family Violence Survey finding that "by both men's and women's reports, women hit their mates as often as did men" and noting that "55 percent of parents who kill their children are mothers"); the glass ceiling (refuting a claim in *The New Yorker* that "the average salary of a black female college graduate is less than that of a white male high school dropout"—actually, it's 80 percent higher); sex crimes (noting that women cry wolf in matters of rape more often than we admit and that innocent men are convicted more often than we think); gender stereotypes (reporting that recent studies debunk the notion that girls are more cooperative while boys are more controlling); the supposed androcentrism of medicine (arguing that it's not true that breast cancer is underfunded and underresearched as compared with prostate cancer); paternity (noting that most fathers who are financially able do pay child support); sexual harassment (citing, among other things, "the 1996 story of Johnathan Prevette, the six-year-old suspended from school for a day for smooching a girl on the cheek"); and divorce (observing that "two out of three divorces are initiated by mothers...Most often, wives cite such nebulous reasons as 'not feeling loved and appreciated'").

Without doing the kind of fine-tooth checking Young seems to have done herself, it's impossible to know for sure that her statistics are more accurate than Faludi's. But her criticisms of Faludi's claims seem valid. Her research is more extensive, and her arguments are more grounded in hard data rather than anecdotes and generalizations. Regardless, Young's ideas remain sound. It's consoling to see someone so radical that she's willing to be moderate—someone able to insist that to see the whole picture, you have to take pieces of truth from both the left and the right. Young writes:

"A conservativism that came to terms with women's (and men's) new roles would have much to contribute to the discussion of the issues of the day. So would a feminism that repudiated victimhood, gender warfare, and a knee-jerk alliance with the left....When it comes to our essential relationship to the world, our moral

© PHOTODISC

reasoning, our duties to ourselves, our families and our society, we should not be defined by sex. We must move toward a culture in which men and women are seen first and foremost as human beings with equal rights and equal responsibilities."

See how reasonable that sounds? Yet how far we are from making it a reality. Sadly, Young's world is too simple by virtue of being reasonable—too optimistic about human nature (which seems somehow to need "selves" and "others," "us" and "them") ever to work in practice. Still, her take is worth our considered attention, if only because it's something we haven't yet tried in earnest. Now if she could only get her tome serialized in *Mademoiselle.*

Norah Vincent (nvincent@ix.netcom.com) is a freelance writer in New York City.

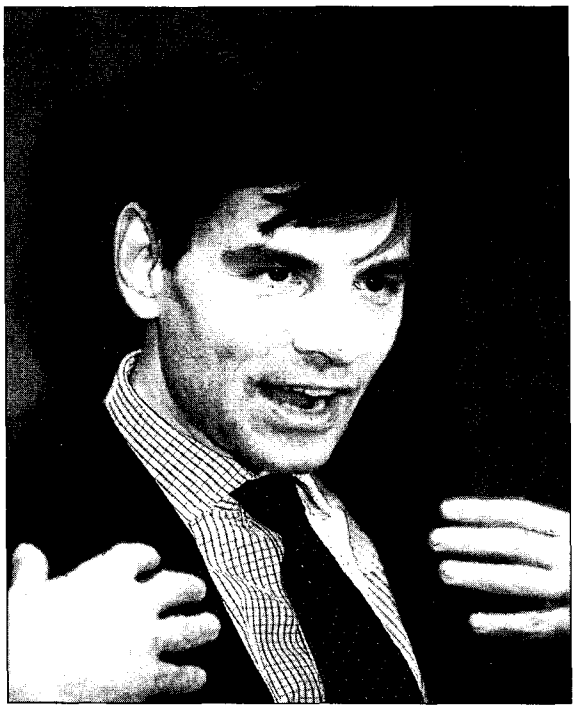
All Too Shallow

By John J. Pitney Jr.

All Too Human: A Political Education, by George Stephanopoulos, Boston: Little, Brown, 456 pages, $27.95

Quick: What exactly did George Stephanopoulos do in the Clinton White House? He hosted the daily press briefing for a few months, but he botched the job so badly that Clinton handed the job to Dee Dee Myers. So how did he spend the rest of his tenure?

Don't feel bad if the answer escapes you. Stephanopoulos himself seems confused about what he was supposed to be doing, a problem that has apparently plagued him for years. In 1989, he signed on with Rep. Richard Gephardt (D-Mo.), then the House majority leader. "My new job was as exciting as I expected," he writes, "even though I couldn't explain exactly what it was."

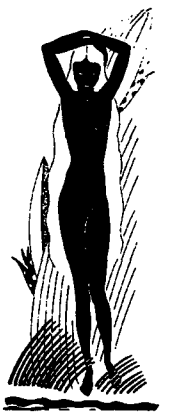


AP / WIDE WORLD PHOTO

Petty Boy: There's plenty of introspection in George Stephanopoulos' memoir, but it's all petty. Obsessing about whether he was up or down in Clinton's estimation, he forgets to ponder whether he was right or wrong.

Two years later, he joined the Clinton presidential campaign: "Although my duties were not defined with precision, I didn't press for clarification." After victory, the Clintons told him that he would have a place in their White House, and that he would keep on doing what he did in the campaign. "Exactly what they meant would be worked out later," he writes. "For the moment, it was just nice to hear." When Clinton dragged him from the briefing room, he says, "my new title was the nebulous 'senior adviser for policy and strategy.' Only time would tell what it

TALES OF THE MALL MASTERS



A novel by
David Gulbraa

"This novel...is a fresh and exciting look at what a philosophically grounded libertarian society might look like. Gulbraa thoroughly fleshes out the cultural and artistic life of this civilization, to a depth that no other libertarian novelist has ever done, and in so doing, transcends that genre and vaults into the canon of Romantic literature. The culture of the Mall Masters is a highly evolved and robust example of what is possible to humanity, full of exalted celebration, of mind-swelling passion, and fantastic prosperity. If you stepped into the world of *Atlas Shrugged* and zoomed forward a century or two, it might approximate Gulbraa's creation."
—Joe Duarte

Readers all over the country are discovering the stylized and idealized world David Gulbraa has created. Here is reason and freedom unleashed to create a culture of man-worship. Find out what all the excitement is about!

Find it at Amazon.com!

ISBN 1891021028, $29.95, 6 X 9 trade paperback, 419 pages.

Direct orders, add $4 shipping, plus 8.25% CA sales tax.
Send orders to:

Radical Romantic Press
PO Box 66693
Los Angeles CA 90066

would mean." Clinton reassured Stephanopoulos that he wanted him by his side, but when Leon Panetta became chief of staff, fears of unemployment strafed his mind, "which meant that I needed a job description beyond 'by my side.'"

All too typical. Washington teems with young people sporting such titles as "assistant," "deputy," and "liaison," all of them hoping to become George Stephanopoulos. They spend 60-hour weeks churning out "policy initiatives" and writing frantic memoranda on "damage control," never reflecting that most of the damage comes from all those initiatives. If they'd all just go home, the government would shrink, the storm would clear, and their mental health would improve. Instead, they settle for Band-Aids: Stephanopoulos grew a beard to cover the stress-induced hives on his chin.

It wasn't just the workload that was making him tense. Anybody in the Clinton White House ran a high risk of legal trouble, and Stephanopoulos was no exception. During the Whitewater probe, he griped to a Treasury official about a Resolution Trust Corporation investigator's GOP connections, wondering aloud if there was a way to fire him. Unknown to Stephanopoulos, the official was keeping a diary, which later fell into the hands of the Office of the Independent Counsel and the Senate Banking Committee. The journal entry did not show any criminal wrongdoing, Stephanopoulos says, but it did cause him some tense and embarrassing moments.

The incident undoubtedly reminded him of what was already conventional wisdom among Washington insiders: *Diaries are subject to subpoena, so never keep one.* According to press accounts of Stephanopoulos' book deal, he abided by that rule throughout his White House years.

A question arises. Although Stephanopoulos surely has a fine memory, it is implausible to think that he summoned 456 pages of detail and dialogue from the recesses of his brain. It is hard enough to reconstruct a conversation from yesterday, much less seven years ago. So without a diary, where did he get all this material?

In his acknowledgments, Stephanopoulos says he refreshed his recollections by speaking with other participants and having interns research the public record. He deserves credit for his diligence, but the product is a book that is short on fresh information.

For example, he tells of a 1992 focus group where hand-held meters showed a negative response when Hillary Clinton appeared on videotape. He recalls Bill Clinton showing both spousal concern and a capacity for denial by saying: "Oh, man, they don't like her hair." When *Newsweek* ran excerpts from the book, its editors thought this anecdote was newsworthy enough to merit inclusion. Apparently, they forgot that it had appeared five years ago in *All's Fair*, the joint memoir by Mary Matalin and James Carville.

The Clinton people are true believers in their own righteousness—and in the basic evil of anyone with a different viewpoint. When a Republican House candidate won an upset victory in a 1994 special election, Clinton said: "It's Nazi time out there. We've got to hit them back."

In fact, whenever Carville appears, Stephanopoulos' account tracks closely with the earlier book. Their urgent phone conversation about Gennifer Flowers, Hillary Clinton's role in naming the now-famous War Room, the tearful farewells at the final War Room meeting—in each case, Stephanopoulos offers the same story as Carville, with only slight variations.

There are other stale crumbs. During the 1993 budget debate, Clinton called Sen. Bob Kerrey (D-Neb.), who was on the verge of breaking with the White House line. Stephanopoulos remembers Clinton's increasingly heated responses, climaxing in an obscene Anglo-Saxonism. Bob Woodward published this conversation (including Kerrey's side) in his 1994 book *The Agenda.* Woodward, of course, probably got his information from Stephanopoulos in the first place—but that doesn't help the reader in search of something new.

In fact, by talking to so many reporters during his tenure, Stephanopoulos repeatedly scooped himself. In *All Too Human,* he tells of his anguish over Clinton's support of the death penalty—an anguish he aired three years ago in a *Boston Globe* interview. He offers a good account of Clinton's 1991 pre-primary skirmish with Mario Cuomo over welfare. But he already related the episode to Joe Klein, who wrote it into his novel *Primary Colors*—narrated by a character based on Stephanopoulos.

In a weird, postmodern twist, Stephanopoulos seems to draw even from his fictional alter ego. During the 1992 campaign, he says, his own doubts about Clinton's character merely increased his determination to fight even harder: "Now I was a true believer." Joe Klein's "Henry Burton" put it this way: "True Believerism...I was caught up in the thing. I had no perspective."

The Clinton people are true believers in their own righteousness—and in the basic evil of anyone with a different viewpoint. When a Republican House candidate won an upset victory in a 1994 special election, Clinton said: "It's Nazi time out there. We've got to hit them back." Stephanopoulos shares this attitude, describing criticism of federally funded midnight basketball as "a fiscally conservative stance with a racist subtext."

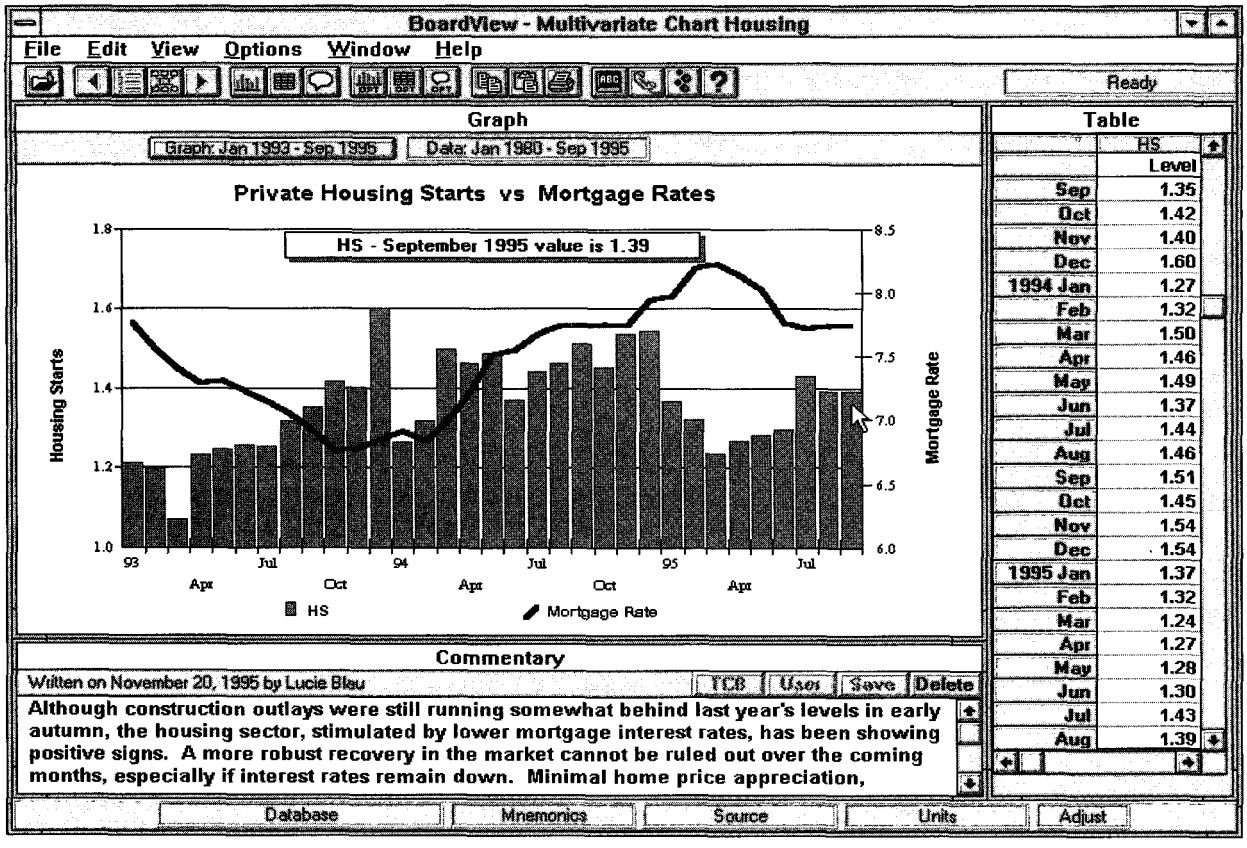
Stephanopoulos now suggests that he has lost some of his faith in Clinton—but only because his lies got too gross to ignore. Never in this book does he seriously question his beliefs about the role of government, or even acknowledge that the issue might be subject to debate. There's plenty of introspection here, but it's all petty. Obsessing about whether he was up or down, he forgets to ponder whether he was right or wrong. ◆

Contributing Editor John J. Pitney Jr. (jpitney@mckenna.edu) is an associate professor of government at Claremont McKenna College.

BoardView®

The economic information service for Windows

DECISION MAKERS' KNOWLEDGE TOOL



ECONOMIC DATA—CONFERENCE BOARD FORECASTS—USER DATA

SUPPORTS

- STRATEGIC PLANNING
- MARKET RESEARCH
- ECONOMICS
- CORPORATE FINANCE
- ASSET MANAGEMENT
- SENIOR MANAGEMENT
- LIBRARIES

PROVIDES

- CONSISTENT CORPORATE-WIDE ECONOMIC VIEW
- EXECUTIVE DECISION SUPPORT
- PROFESSIONAL REPORTS AND PRESENTATIONS
- BUILT-IN INTELLIGENCE

PAYBACK

- SAVES TIME AND EFFORT
- REDUCES TURNAROUND
- IMPROVES QUALITY
- AUGMENTS SMALL STAFF
- INFORMS DECISION MAKERS

CALL TODAY FOR ADDITIONAL INFORMATION. BOARDVIEW HOTLINE: (212) 339-0339

THE CONFERENCE BOARD • 845 THIRD AVENUE • NEW YORK, NY • 10022-6679

BoardView web page: www.conference-board.org/static/vboard.cfm

Hostage Rescue

Another reason to liberate the schools

By Thomas W. Hazlett

The corpses weren't even cold when the tragedy in Littleton, Colorado, triggered yet a new assault by political opportunists. Those pushing gun control exploited the situation to greatest effect, but the crusaders against TV violence and video game brutality, along with evangelists for family values and Internet censorship, also made very strong showings.

The senseless violence we observe at irregular intervals in our public schools freezes the national psyche. Gripped by fear, we are sitting ducks for each new policy fix. We will almost certainly embrace a new gun control measure to join existing state and federal bans on firearms within 1,000 feet of a school; doubtless, the new law will prove just as effective a deterrent as the old ones.

Through Election 2000, we will read about the Special Commissions, the congressional hearings, and the White House Task Forces on Violence in the Media. No one, rest assured, will rudely call attention to the failure of previous "solutions," such as the 1996 Telecommunications Act's "V-chip" and "voluntary" TV ratings.

Time to look elsewhere for answers. Rather than wondering what Congress can do, why not ask a different sort of question, such as, What kind of institution considers it ordinary for children to daily quench a thirst for hatred?

The answer, of course, is the American public high school. In middle-class Littleton, the rights of pre-adult man have evolved such that dressing "gothic" or issuing a sensational death threat is a free and accepted lifestyle choice. Of course, the in-crowd's taunting of the socially awkward is equally respected by "authority." After all, for public schools to slap down such behavior would trample the Constitution. While citizens rightly do not want government bureaucrats freelancing with their own moral codes, our children can't afford principals without principles.

The principal of Littleton's Columbine High said he had no idea that students at his school were members of a "Trench Coat Mafia"—the sobriquet, well-known among the students, was news to him. As a government official, his live-and-let-live approach is admirable.

But this man runs a school and his abdication creates a leadership vacuum into which punks get sucked. It seems incomprehensible that the adults at Columbine were unable to recognize, much less police, the anger, confusion, and raging hormones of the young men under their charge. In delegating education to state operators, we have kidnapped our own children and delivered them to inattentive captors. Yet we fail to appreciate the serious hostage situation thereby created.

It is readily understandable how anarchy came to reign supreme in our schools. It is also readily understandable how to redress the problem.

Something similar operates in housing markets. In *What It Means to Be a Libertarian,* Charles Murray notes that with the formal protections now enjoyed by tenants in rental housing, the landlord is no longer "arbitrary and capricious." Pretty good up to a point. But with eviction tightly regulated, neighborhood troublemakers, who used to fear getting the bum's rush, enjoy domestic security. The landlord, who otherwise would have an incentive to kick ne'er-do-wells out—all things being equal, he ups the rent when the neighborhood improves—is emasculated. And the miscreant, who would otherwise have an incentive to shape up, is empowered.

The Social Uplifters declare that tenant-protection laws have ended the reign of terror inflicted by surly and dyspeptic landlords. But such laws have eliminated one of society's natural mechanisms for keeping communities and the people in them nice. When it is impossible to get rid of troublemakers, it is impossible to get rid of trouble.

It is readily understandable how anarchy came to reign supreme in our schools. It is also readily understandable how to redress the problem.

If parents were free to abandon the scene of the crime, moving their children—and tax dollars—to secured venues where brotherhood and respect were not simply electives but part of the core curriculum, school administrators would not be so clueless about the evil that lurks in their hallways. Were students not quite so liberated from the judgments of their teachers and the codes of adults, their schools would be better, safer places.

Given the choice, what parent would search for a school that opposed the Golden Rule? That was agnostic on the issue of classroom discipline? That tolerated belittling and hatemongering? Freed from the constraints of governmental power, what school teacher would not demand respect and dignity from those young rascals yearning for guidance?

Is it far-fetched to believe that the suppliers and the demanders of decency would flood the market for educational services? Hardly. Indeed, a recognition that they would is precisely the reason why vouchers and the like are bitterly resisted—opponents know that the choice to go elsewhere would empty our public schools more quickly than the next burst of gunfire. ◆

Contributing Editor Thomas W. Hazlett (hazlett @primal.ucdavis.edu) is an economist at the University of California at Davis and a resident scholar at the American Enterprise Institute.

"Let me give you THE SECRETS OF FEARLESS CONVERSATION!"

"I promise you the ability to walk into a room full of strangers—and talk to anyone with total confidence, authority and flair."

by Leil Lowndes

The King of Conversation raves about Leil Lowndes!
"You'll not only break the ice, you'll melt it away with your new conversation skills."-*Larry King*

Don't you hate it?

The prospect of walking into a room that's packed with strangers, approaching someone you've never met and striking up a conversation.

It's natural to feel uncomfortable. Are you making a positive first impression? Are you saying the right things?

Well, don't be discouraged. You're not alone. Many top executives, politicians and celebrities dread these situations.

Master any encounter.

These high-profile people are among my clients. Despite their wealth and fame, they often confess that meeting and talking with strangers makes them uneasy. I turn them into polished, expert conversationalists.

Never underestimate the value of conversational skills! In a recent study, Stanford University MBA graduates were surveyed. What factor predicted success? *Not* grades. Instead, *the most successful individuals were those who were comfortable and confident talking with anybody!*

When I teach people these abilities, they experience dramatic, positive changes in their lives and careers. Now I've put all of my techniques into an exciting new audio-cassette program, *Conversation Confidence*™.

Reap the rewards.

Have you ever said to yourself, "I wish I had spoken up"? Or, "If only I had introduced myself"? Or, "Did I say the wrong thing"?

Conversation Confidence is the answer. *Just by listening,* you'll master the proven interpersonal skills you need to deal with *every* individual, *every* group, *every* occasion.

The result? New doors will open to you. You won't hesitate to accept an invitation, to approach someone important, to seize an opportunity. You'll never again feel like an outsider. Success will naturally flow your way—and with less effort than you ever imagined possible.

*Internationally acclaimed communications expert **Leil Lowndes** is a best-selling author and speaker who also coaches private clients, including top Fortune 500 executives.*

Winning strategies.

Here's just a sampling of the secrets you'll discover in *Conversation Confidence:*

- ✓**The two most powerful "instant rapport" techniques. Use them and you'll *always* make a terrific first impression.**
- ✓How champion socializers and big winners "work" a room.
- ✓**The four rules of effective "small talk"—and the one huge *error* many people commit.**
- ✓How to converse intelligently on *any* subject—even if you know little or nothing about it!
- ✓**Magic phrases that never fail to win a new acquaintance's trust and goodwill.**
- ✓How to handle difficult people. Ingenious ways to turn even the fiercest tigers into pussycats.
- ✓**Is she (or he) romantically attracted to you? How to know for sure.**
- ✓Someone mentions something you have in common. Wait! *Don't* reveal it right away. Here's why.
- ✓**Are you hearing the truth—or a lie? Watch for these critical tip-offs.**
- ✓Phone power! How to get through to "unreachable" people.
- ✓**Ten often-heard expressions—that *you* should *never say.***
- ✓Get what you want! Shrewd tactics to negotiate, persuade, sell. A powerful six-step formula to win others over.
- ✓**And much more!**

NO-RISK trial offer, plus a great FREE BONUS.

Test this terrific program for only $19.95. Put it to work—and watch what happens. I *guarantee* that with *Conversation Confidence,* you'll be a winner on every occasion, *or it costs you nothing!*

You'll receive the two Introductory tapes of the program to audition for 30 days. Listen to them as many times as you wish. Then, decide if you want the complete program. You may keep the Introductory tapes, or return them for a *prompt, full, no-hassles refund.* Fair enough?

You'll also receive a FREE BONUS: the* Verbal Advantage® *two-hour word power course.

This famous vocabulary-building program is the perfect companion to *Conversation Confidence.* And it's yours *free.* Even if you return *Conversation Confidence* and claim your refund, the bonus is *yours to keep!*

Now you can possess the self-assurance and skills to meet and talk with anyone, anywhere, any time. You'll never miss another chance to make a promising new business contact or friend, to win his or her trust, to achieve your goals.

Unleash the power of *Conversation Confidence* and start to create a real difference in your life. ***Order today!***

TEST THIS LIFE-CHANGING PROGRAM FOR 30 DAYS—WITHOUT RISK!

CALL TOLL-FREE 1-800-417-9673

Or FAX your credit card order to 949-361-5624 • www.verbaladvantage.com

*verbal*Advantage®
1150 Calle Cordillera, Dept. 5237
San Clemente, CA 92673

☐ **YES,** I want to test *Conversation Confidence*™ without risk. Rush me the two Introductory tapes. Please include my *free bonus,* the *Verbal Advantage* two-hour word course.

I may audition the Introductory tapes for 30 days. Later, I can decide if I want the complete program. If I'm not totally satisfied, I may return the two tapes within the one-month trial period for a prompt, full, no-hassles refund. ***The free bonus is mine to keep, regardless.***

© 1999 Wordsuccess LLC All rights reserved.

☐ My check for $24.90 is enclosed. ($19.95 plus $4.95 S&H)
Charge my: ☐Visa ☐MasterCard ☐American Express ☐Discover

Card No._____

Exp._____ Signature_____

Name_____

Title/Co._____

Address_____

City_____

State/Prov._____ Zip_____

Phone (_____)_____

California residents, please add 7.25% sales tax ($1.45), for a total of $26.35

Gold.

Assurance for Today
Insurance for Tomorrow

Y2K Computer Bug
Volatile Markets
The Euro-Dollar...

With today's economic uncertainties, what assurance do you have for your financial well-being?

Call ***Lear Financial*** today and request your

Free 1999 Gold Investment Guide.

No Obligation. Guaranteed Lowest Prices.

LEAR FINANCIAL IS ONE OF AMERICA'S LEADING GOLD BROKERS AND THE ONLY DEALER THAT OFFERS AN "INVESTOR FRIENDLY" GUARANTEE.

1-800-965-0580.

LEAR FINANCIAL, 429 SANTA MONICA BLVD., SANTA MONICA, CALIFORNIA 90401

LICENSED TO UNZ.ORG